

1986
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FORTY-NINTH LEGISLATURE
Convened January 13, 1986. Adjourned March 12, 1986.



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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 bound volume edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating code sections affected.

(b) *Temporary pamphlet edition — where and how obtained — price.* The temporary session laws may be ordered from the Statute Law Committee, Legislative Building, Olympia, Washington 98504 at \$5.39 per set (\$5.00 plus \$.39 for state and local sales tax of 7.8%). All orders must be accompanied by remittance.

(c) *Permanent bound edition — when and how obtained — price.* The permanent bound edition of the 1986 session laws may be ordered from the State Law Librarian, Temple of Justice, Olympia, Washington 98504 for \$21.56 (\$20.00 plus \$1.56 for state and local sales tax of 7.8%). All orders must be accompanied by remittance.

2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

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

(a) In amendatory sections

(i) underlined matter is new matter.

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

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

3. PARTIAL VETOES

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

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

4. EDITORIAL CORRECTIONS. Words and clauses inserted herein pursuant to the authority of RCW 44.20.060 are enclosed in brackets [].

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 1986 regular session to be June 11, 1986 (midnight June 10).

(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 laws may be found at the back of the final pamphlet edition and the permanent bound edition.

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CHAPTER 1

[Engrossed House Bill No. 1703]

COMPARABLE WORTH—IMPLEMENTATION

AN ACT Relating to comparable worth; amending section 702, chapter 6, Laws of 1985 ex. sess. (uncodified); and declaring an emergency.

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

Sec. 1. Section 702, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE GOVERNOR—COMPARABLE WORTH IMPLEMENTATION AND LAWSUIT

General Fund Appropriation	\$	26,790,000
Special Fund Salary Increase		
Revolving Fund Appropriation	\$	19,120,000
Total Appropriation	\$	45,910,000

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

(1) ~~\$(2,578,000)~~ 644,500 of the general fund appropriation and ~~\$(1,305,000)~~ 326,250 of the special fund salary increase revolving fund appropriation are provided solely for a salary increase for those job classifications tied to salary survey benchmarks falling 8 ranges or more below the January 1, 1985, actual average comparable worth line as calculated under the formula of $\$983.72 + (\$3.28 \times \text{points})$ and rounded to the nearest Step G or equivalent step for shortened ranges. However, a job classification shall receive an increase only if its salary range as of January 1, 1985, is also 8 or more ranges less than the salary range of that classification as calculated under the aforementioned formula using the evaluation points of that classification as adopted by the respective personnel board. ~~((The adjustments))~~ This adjustment shall take place July 1, 1985, ~~((and July 1, 1986;))~~ and shall equal \$75 a year for all affected classes and employees and shall terminate on March 30, 1986.

(2) \$350,000 of the general fund—state appropriation shall be used solely by the office of the governor to hire an independent consultant with expertise in developing and evaluating public employee job classification systems and implementing comparable worth. The consultant shall:

- (a) Review the Willis methodology;
- (b) Update job class specifications for all job classes with incumbents that have not been reviewed for the past five years;
- (c) Develop a new benchmark and indexing structure which reflects the evaluated worth of the job classes; and
- (d) Evaluate the job class specifications for the implementation of comparable worth.

(3) The department of personnel and the higher education personnel board shall provide any assistance needed by the consultant to perform the activities in subsection (2) of this section. Both the state personnel board and higher education personnel board must submit joint reports to the legislature on the progress to date in implementing the consultant's recommendations no later than January 1, 1986, and July 1, 1986. On January 1, 1987, both boards shall submit a final report to the legislature.

(4) \$150,000 of the general fund—state appropriation shall be used solely for the office of the governor to allocate to agencies that provide technical assistance to the consultant hired under subsection (2) of this section.

(5) ~~\$(23,612,000)~~ 25,545,500 of the general fund appropriation and ~~\$(17,815,000)~~ 18,793,750 of the special fund salary increase revolving fund appropriation, along with all moneys currently included in agencies' budgets for payment of the \$100 per year comparable worth salary increase pursuant to chapter 76, Laws of 1983 1st ex. sess., are provided for the settlement of all claims of all plaintiffs and class members of American Federation of State, County, and Municipal Employees, et al. v. State of Washington, et al., Cause Nos. C82-4657, 84-3569, and 84-3590 and the implementation of comparable worth pursuant to RCW 28B.16.116 and RCW 41.06.155. The settlement shall result in complete discharge of all claims of any nature whatsoever of all plaintiffs and class members. It is the intent of the legislature that salary adjustments for affected class members not exceed the adjustment calculated using the average actual comparable worth salary line as applied to the Willis evaluation points of the affected job classification and adopted by the state personnel board and the higher education personnel board; PROVIDED, That on or before the dates on which comparable worth increases become effective, the higher education personnel board shall review the salaries of all job classifications receiving comparable worth increases which are also receiving special pay to determine whether the requirements of WAC 251-09-090 continue to be met and shall make any reductions in special pay necessary to adjust for the increases in base pay resulting from comparable worth adjustments. The governor as the chief executive officer of the state, with the assistance of the attorney general, is authorized to seek a proposed settlement. However, any such settlement is tentative and subject to legislative ratification. \$100,000 of the general fund appropriation is provided solely for the office of the governor to retain any special consultants or negotiators to work with the attorney general in seeking a settlement of American Federation of State, County, and Municipal Employees, et al. v. State of Washington, et al., within the terms of the appropriation as set out in this subsection. If a tentative settlement is reached within the terms of the appropriation within this subsection, the governor and the attorney general shall jointly present a report on the tentative settlement to the legislature no later than January 1,

1986, for ratification. No funds shall be released before (~~January 1, 1987, and~~) April 1, 1986, or until such time as stipulated final judgment is entered under the terms of the tentative settlement ratified by the legislature, whichever is later. The appropriation provided for settlement in this subsection shall lapse if no proposal is brought before the legislature before January 1, 1986, if the tentative settlement brought before the legislature is not ratified by the legislature during the 1986 legislative session, or if stipulated final judgment is not entered before June 30, 1986.

(6) The department of personnel and the higher education personnel board shall provide monthly reports to the legislative evaluation and accountability program committee regarding the steps each has taken, or proposes to take, to implement the settlement agreement referred to in subsection (5) of this section. The reports will include information on all disputes or potential disputes regarding implementation which have been brought to the attention of the two agencies.

The legislative evaluation and accountability program committee shall report to the legislature regarding the implementation steps taken by, and potential disputes facing, the department of personnel and the higher education personnel board. Such reports shall be provided as often as deemed necessary by the committee, but no later than June 1, 1986, December 1, 1986, and April 1, 1987.

(7) The department of personnel and the higher education personnel board shall report to the legislature by January 1, 1986, with a report identifying those job classifications not covered by the lawsuit that would be entitled to receive adjustments under the average actual comparable worth line. The report shall include recommendations regarding implementation of comparable worth adjustments for these affected job classes.

~~((7))~~ (8) To facilitate payment of salary increases from special funds, the state treasurer is directed to transfer sufficient income from each special fund to the special fund salary and insurance contribution increase revolving fund hereby created in accordance with schedules provided by the office of financial management.

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

Passed the House January 31, 1986.

Passed the Senate February 10, 1986.

Approved by the Governor February 18, 1986.

Filed in Office of Secretary of State February 18, 1986.

CHAPTER 2

[Engrossed Substitute Senate Bill No. 4876]

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

AN ACT Relating to low-level radioactive waste disposal; amending RCW 43.200.080, 70.98.085, and 43.200.070; adding new sections to chapter 43.200 RCW; and declaring an emergency.

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

Sec. 1. Section 8, chapter 19, Laws of 1983 1st ex. sess. 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 ((consonance)) 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. In order to finance perpetual surveillance and maintenance under the agreement, 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 RCW and shall be an amount determined by the ((~~state radiation control agency~~)) 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 treasurer shall place the money in a special account which may be designated the "perpetual maintenance account." 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. Moneys in the perpetual maintenance account 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. 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; ~~((and))~~

(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.

Sec. 2. Section 3, chapter 383, Laws of 1985 and RCW 70.98.085 are each amended to read as follows:

~~(1)((a))~~ The agency ~~((shall institute a user permit system and issue))~~ is empowered to suspend and reinstate site use permits consistent with current regulatory practices and in coordination with the department of ecology, for generators, packagers, or brokers using the Hanford low-level radioactive waste disposal facility.

~~((b))~~ The costs of administering the user permit system shall be borne by the applicants for site use permits.

~~(c)~~ 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.

~~(2)~~ In addition to the fee collected pursuant to subsection (1) of this section;) (2) The agency shall collect a surveillance fee as an added charge on each cubic foot of low level radioactive waste disposed of at the disposal site in this state which shall be set at a level that is sufficient to fund completely the radiation control activities of the agency which are not otherwise covered by cost recovery programs including, but not limited to, any funds from federal sources: PROVIDED, That the surveillance fee shall not exceed ~~((three))~~ four percent of the basic minimum fee charged by an operator of a low-level radioactive waste disposal site in this state. The basic minimum fee consists of the disposal fee for the site operator, the fee for the perpetual care and maintenance fund administered by the state, the fee for

the state closure fund, and the tax collected pursuant to chapter 82.04 RCW. Site use permit fees and surcharges collected under chapter 43.200 RCW are not part of the basic minimum fee. The fee shall also provide funds for other state agencies that incur expenses as a result of the control and management of the disposal of low-level radioactive waste in the state of Washington. Disbursements for these purposes to other state agencies shall be by authorization of the secretary of the department of social and health services or the secretary's designee.

~~((3))~~ The agency may adopt such rules as are necessary to carry out its responsibilities under this section.

~~((4) The agency shall submit a report to the legislature and the governor on or before the start of the 1986 regular session of the legislature. The report shall specify the radiation control activities required in this 1985 act, the cost of each activity and the source of the funding for each activity including federal assistance and the fees authorized by this 1985 act.)~~

NEW SECTION. Sec. 3. A new section is added to chapter 43.200 RCW to read as follows:

The governor may assess surcharges and penalty surcharges on the disposal of waste at the Hanford low-level radioactive waste disposal facility. The surcharges may be imposed up to the maximum extent permitted by federal law. Moneys received under this section shall be deposited in the general fund.

NEW SECTION. Sec. 4. A new section is added to chapter 43.200 RCW to read as follows:

The department of ecology shall be the state agency responsible for implementation of the federal low-level radioactive waste policy amendments act of 1985, including:

- (1) Collecting and administering the surcharge assessed by the governor under section 3 of this act;
- (2) Collecting low-level radioactive waste data from disposal facility operators, generators, intermediate handlers, and the federal department of energy;
- (3) Developing and operating a computerized information system to manage low-level radioactive waste data;
- (4) Denying and reinstating access to the Hanford low-level radioactive waste disposal facility pursuant to the authority granted under federal law;
- (5) Administering and/or monitoring (a) the maximum waste volume levels for the Hanford low-level radioactive waste disposal facility, (b) reactor waste allocations, (c) priority allocations under the Northwest Interstate Compact on Low-Level Radioactive Waste Management, and (d) adherence by other states and compact regions to federal statutory deadlines;

(6) Coordinating the state's low-level radioactive waste disposal program with similar programs in other states; and

(7) Preparing an annual report to the legislature which details the manifested curie content and cubic foot volume of the material received at the Hanford low-level radioactive waste disposal facility in a manner which allows for an assessment of the impact of volume reduction techniques and imposition of any surcharges on the amount of material received.

Sec. 5. Section 7, chapter 19, Laws of 1983 1st ex. sess. as amended by section 8, chapter 161, Laws of 1984 and RCW 43.200.070 are each amended to read as follows:

The board and/or the department of ecology (~~are authorized to~~) shall adopt such rules as are necessary to carry out responsibilities under this chapter. The department of (~~social and health services~~) ecology is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW.

NEW SECTION. Sec. 6. A new section is added to chapter 43.200 RCW to read as follows:

(1) The department of ecology shall perform studies, by contract or otherwise, to define site closure and perpetual care and maintenance requirements for the Hanford low-level radioactive waste disposal facility and to assess the adequacy of insurance coverage for general liability, radiological liability, and transportation liability for the facility.

(2) The department shall complete the studies and report its findings to the legislature by December 31, 1987. The department shall make a preliminary progress report to the legislature by December 31, 1986.

NEW SECTION. Sec. 7. Sections 3 and 4 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 13, 1986.

Passed the House February 15, 1986.

Approved by the Governor February 21, 1986.

Filed in Office of Secretary of State February 21, 1986.

CHAPTER 3

[Engrossed Substitute Senate Bill No. 4519]

WATER POLLUTION CONTROL FACILITIES AND ACTIVITIES—FINANCING

AN ACT Relating to the financing of water pollution control facilities and activities; re-enacting and amending RCW 82.24.260; adding a new chapter to Title 70 RCW; adding a new section to chapter 82.24 RCW; adding a new section to chapter 82.26 RCW; adding a new section to chapter 82.32 RCW; 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 long-range health and environmental goals for the state of Washington require the protection of the state's surface and underground waters for the health, safety, use, enjoyment, and economic benefit of its people. It is the purpose of this chapter to provide financial assistance to the state and to local governments for the planning, design, acquisition, construction, and improvement of water pollution control facilities and related activities in the achievement of state and federal water pollution control requirements for the protection of the state's waters.

It is the intent of the legislature that distribution of moneys for water pollution control facilities under this chapter be made on an equitable basis taking into consideration legal mandates, local effort, ratepayer impacts, and past distributions of state and federal moneys for water pollution control facilities.

It is the intent of this chapter that the cost of any water pollution control facility attributable to increased or additional capacity that exceeds one hundred ten percent of existing needs at the time of application for assistance under this chapter shall be entirely a local or private responsibility. It is the intent of this chapter that industrial pretreatment be paid by industries and that the water quality account shall not be used for such purposes.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Account" means the water quality account in the state treasury.

(2) "Department" means the department of ecology.

(3) "Eligible cost" means the cost of that portion of a water pollution control facility that can be financed under this chapter excluding any portion of a facility's cost attributable to capacity that is in excess of that reasonably required to address one hundred ten percent of the applicant's needs for water pollution control existing at the time application is submitted for assistance under this chapter.

(4) "Water pollution control facility" or "facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers.

(5) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To prevent or mitigate pollution of underground water; (b) to control nonpoint sources of water pollution; (c)

to restore the water quality of fresh water lakes; and (d) to maintain or improve water quality through the use of water pollution control facilities or other means.

(6) "Public body" means the state of Washington or any agency, county, city or town, conservation district, other political subdivision, municipal corporation, quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(7) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(8) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.

(9) "Sole source aquifer" means the sole or principal source of public drinking water for an area designated by the Administrator of the Environmental Protection Agency pursuant to Public Law 93-523, Sec. 1424(b).

NEW SECTION. Sec. 3. (1) The water quality account is hereby created in the state treasury. Moneys in the account may be used only in a manner consistent with this chapter. Moneys deposited in the account shall be administered by the department of ecology and shall be subject to legislative appropriation. Moneys placed in the account shall include tax receipts as provided in sections 12, 14, and 15 of this act, principal and interest from the repayment of any loans granted pursuant to this chapter, and any other moneys appropriated to the account by the legislature. All earnings from investment of balances in the water quality account, except as provided in RCW 43.84.090, shall be credited to the water quality account.

(2) The department may use or permit the use of any moneys in the account to make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other funds are made available on a cost-sharing basis, for water pollution control facilities and activities within the purposes of this chapter and for related administrative expenses. No more than three percent of the moneys deposited in the account may be used by the department to pay for the administration of the grant and loan program authorized by this chapter.

(3) The department shall present a progress report on the use of moneys from the account to the legislature no later than November 30th of each year.

NEW SECTION. Sec. 4. There is hereby appropriated from the general fund—state and local improvements revolving account—waste disposal and management facilities 1980 (Referendum 39) to the department of ecology an amount not to exceed twenty million dollars for the fiscal year ending June 30, 1987, or so much thereof as is required, for the following purposes:

(1) Not to exceed one million five hundred thousand dollars for planning assistance to any ground water management area created pursuant to chapter 453, Laws of 1985, provided that such assistance does not exceed fifty percent of the estimated annual cost of such planning activity, and provided that for conservation districts such assistance does not exceed seventy-five percent of the estimated cost of such planning activity.

(2) Not to exceed five hundred thousand dollars for nonpoint source pollution control activities, provided that such assistance does not exceed fifty percent of the eligible cost of any such activity, and provided that for conservation districts such assistance does not exceed seventy-five percent of the estimated cost of such planning activity.

(3) Not to exceed four million dollars to assist any aquifer protection area created pursuant to chapter 425, Laws of 1985, provided such assistance does not exceed the amount of any local revenues pledged to the activities of such district.

(4) Not to exceed five hundred thousand dollars for the acquisition of organic laboratory capability to be jointly used with the department of social and health services to test and analyze waters, including those subject to use for public drinking water supplies.

(5) Not to exceed thirteen million five hundred thousand dollars for water pollution control facilities that are determined by the department of ecology to be of highest priority for receipt of state assistance solely for design of such facilities. Such assistance shall not exceed fifty percent of the eligible cost of any such facility.

NEW SECTION. Sec. 5. (1) There is hereby appropriated to the office of financial management from the water quality account for the biennium ending June 30, 1987, the sum of one hundred fifty thousand dollars, or so much thereof as may be necessary, for the planning requirements in section 7 of this act.

(2) There is hereby appropriated to the department of ecology from the water quality account for the biennium ending June 30, 1987, the sum of two hundred fifty thousand dollars, or so much thereof as may be necessary, for the requirements in section 7 of this act.

NEW SECTION. Sec. 6. No grant or loan made in this chapter for fiscal year 1987 shall be construed to establish a precedent for levels of grants or loans made from the water quality account thereafter.

NEW SECTION. Sec. 7. (1) The office of financial management, with the assistance of the department of ecology and other appropriate state agencies and representatives of local government, shall develop a plan for state financial assistance for future water pollution control facilities and activities in conformance with the intent and purposes of this chapter. The plan shall be presented to the legislature no later than January 1, 1987, and shall include but not be limited to the following:

(a) An evaluation of the total cost to public bodies throughout the state constructing water pollution control facilities and undertaking water pollution control activities, including an identification of the federal, state, and local resources and mechanisms available to address water quality needs; the need for and appropriate level of state assistance for such facilities and activities and the appropriate level of such assistance; and an evaluation of whether such assistance should be in the form of loans, grants, or a combination thereof. The evaluation shall give consideration to the absence of conservation district taxing authority and the corresponding need for increased levels of matching loans or grants for such districts.

(b) Recommendations for the establishment of a state revolving loan fund program for water pollution control expenditures, including the terms and rate of interest to be charged on state loans.

(c) A description of criteria for the equitable distribution of state moneys based upon the intent and policies of this chapter. This element shall include a compilation of current local household sewerage rates imposed throughout the state and a forecast of future sewerage rates throughout the state based upon the costs of construction and of proper operation and maintenance of water pollution control facilities. Such forecast shall include estimates of the impact on future household sewerage rates of varying levels of state assistance.

(d) An assessment of the capacity of local entities providing sewerage services to raise the capital necessary to comply with federal and state wastewater treatment requirements and to provide proper operation and maintenance of water pollution control facilities.

(e) An evaluation of the feasibility of debt service agreement with local entities where the state would assist local jurisdictions to defray the debt service on locally issued bonds.

(f) An assessment of and recommendations for improved coordination of all water quality management activities among state agencies and between the state and local governments.

(2) The director of ecology shall report to the legislature by January 1, 1987, an evaluation of the water quality protection needs for the state, excluding the geographic area covered by the Puget Sound water quality authority's management plan for Puget Sound. The evaluation should include, but not be limited to:

(a) An assessment of future water pollution control facility needs to accommodate population and economic growth, including those facilities under compliance orders and other legal mandates. This shall include consideration of the appropriate state role in financing such needs.

(b) Incorporation of nonpoint water quality management plans generated under section 208 of the federal clean water act and the needs of public bodies for:

(i) Ground water protection planning and implementation including source protection plans for public water systems;

(ii) Control of nonpoint pollution from agriculture, urban stormwater runoff, forest practices, and on-site sewage disposal;

(iii) Shellfish protection;

(iv) Lake restoration; and

(v) Greatest reasonable reduction of combined sewer overflows.

(c) The need for revision or establishment of industrial discharge standards, including pretreatment requirements.

(d) The adequacy of monitoring and laboratory capabilities for conducting a state-wide water quality protection program.

The report shall incorporate the timetables established in RCW 90.44.400 through 90.44.440 for ground water management activities and the timetables established in RCW 90.48.460 through 90.48.490 for review of industrial discharge standards and reduction of combined sewer overflows. The report shall specify criteria for establishing priorities among various water quality needs, including an identification of key problem areas, requirements of existing state and federal legislation, an evaluation of local governments' readiness to proceed in meeting various needs, and the constraints impeding progress. In developing the evaluation, the director shall coordinate with the office of financial management and the Puget Sound water quality authority and shall consult with other appropriate state agencies.

NEW SECTION. Sec. 8. The department of ecology may provide for a phased in compliance schedule for secondary treatment which addresses local factors that may impede compliance with secondary treatment requirements of the federal clean water act.

In determining the length of time to be granted for compliance, the department shall consider the criteria specified in the federal clean water act.

NEW SECTION. Sec. 9. During the period from July 1, 1987, until June 30, 1995, the following limitations shall apply to the department's total distribution of funds appropriated from the water quality account:

(1) Not more than fifty percent for water pollution control facilities which discharge directly into marine waters;

(2) 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;

(3) 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;

(4) Not more than ten percent for activities which control nonpoint source water pollution;

(5) Ten percent and such sums as may be remaining from the categories specified in subsections (1) through (4) of this section for water pollution control activities or facilities as determined by the department; and

(6) Not more than two and one-half percent of the total amounts of moneys under subsections (1) through (5) of this section from the effective date of this act until December 31, 1995, may be transferred by the department to the state conservation commission for the purposes of this chapter.

The distribution under this section shall not be required to be met in any single fiscal year.

NEW SECTION. Sec. 10. When making grants or loans for water pollution control facilities, the department shall consider the following:

(1) The protection of water quality and public health;

(2) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(3) Actions required under federal and state permits and compliance orders;

(4) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(5) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(6) The recommendations of the Puget Sound water quality authority and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

NEW SECTION. Sec. 11. Within thirty days after June 30, 1987, and within thirty days after each succeeding fiscal year thereafter, the state

treasurer shall determine the tax receipts deposited into the water quality account for the preceding fiscal year. If the tax receipts deposited into the account in each of the fiscal years 1988 and 1989 are less than forty million dollars, the state treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total receipts in each fiscal year up to forty million dollars.

After June 30, 1989, if the tax receipts deposited into the water quality account for the preceding fiscal year are less than forty-five million dollars, the state treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total receipts up to forty-five million dollars.

NEW SECTION. Sec. 12. A new section is added to chapter 82.24 RCW to read as follows:

There is hereby levied and there shall be collected by the department of revenue from the persons mentioned in and in the manner provided by this chapter, an additional tax upon the sale, use, consumption, handling, possession, or distribution of cigarettes in an amount equal to the rate of four mills per cigarette.

The moneys collected under this section shall be deposited in the water quality account under section 3 of this act through June 30, 2021, and in the general fund thereafter.

Sec. 13. Section 7, chapter 157, Laws of 1972 ex. sess. as last amended by section 217, chapter 3, Laws of 1983 and by section 3, chapter 189, Laws of 1983 and RCW 82.24.260 are each reenacted and amended to read as follows:

Any retailer who sells or otherwise disposes of any unstamped cigarettes other than (1) a federal instrumentality with respect to sales to authorized military personnel and (2) a federally recognized Indian tribal organization with respect to sales to enrolled members of the tribe shall collect from the buyer or transferee thereof the tax imposed on such buyer or transferee by (~~RCW 82.24.020, 82.24.025;~~) this chapter and RCW 28A.47.440 and remit the same to the department after deducting from the tax collected the compensation he would have been entitled to under the provisions of this chapter and RCW 28A.47.440 if he had affixed stamps to the unstamped cigarettes. Such remittance shall be made at the same time and manner as remittances of the retail sales tax as required under chapters 82.08 and 82.32 RCW. In the event the retailer fails to collect the tax from the buyer or transferee, or fails to remit the same, the retailer shall be personally liable therefor, and shall be subject to the administrative provisions of RCW 82.24.230 with respect to the collection thereof by the department. The provisions of this section shall not relieve the buyer or possessor of unstamped cigarettes from personal liability for the tax imposed by (~~RCW 82.24.020, 82.24.025;~~) this chapter and RCW 28A.47.440.

Nothing in this section shall relieve a wholesaler or a retailer from the requirements of affixing stamps pursuant to RCW 82.24.040 and 82.24.050.

NEW SECTION. Sec. 14. A new section is added to chapter 82.26 RCW to read as follows:

(1) In addition to the taxes imposed under RCW 82.26.020, there is levied and there shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of sixteen and three-fourths percent of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state, or (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

(2) The moneys collected under this section shall be deposited in the water quality account under section 3 of this act through June 30, 2021, and in the general fund thereafter.

NEW SECTION. Sec. 15. A new section is added to chapter 82.32 RCW to read as follows:

The department of revenue shall deposit into the water quality account all moneys received from the imposition on consumers of the taxes under chapters 82.08 and 82.12 RCW on the sales or use of articles of tangible personal property which become or are to become an ingredient or component of new or existing water pollution control facilities and activities, as defined in section 2 of this act, which received full or partial funding from the water quality account.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 17. Sections 1 through 11 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 18. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately except sections 12 through 15 of this act shall take effect April 1, 1986.

Passed the Senate February 12, 1986.

Passed the House February 15, 1986.

Approved by the Governor February 21, 1986.

Filed in Office of Secretary of State February 21, 1986.

CHAPTER 4

[Substitute Senate Bill No. 3590]

GAMBLING COMMISSION—LOTTERY COMMISSION—MEMBERS OR EMPLOYEES—CONFLICTS OF INTEREST

AN ACT Relating to public employees; adding a new section to chapter 9.46 RCW; and adding a new section to chapter 67.70 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.46 RCW to read as follows:

A member or employee of the gambling commission shall not:

- (1) Serve as an officer or manager of any corporation or organization which conducts a lottery or gambling activity;
- (2) Receive or share in, directly or indirectly, the gross profits of any gambling activity regulated by the commission;
- (3) Be beneficially interested in any contract for the manufacture or sale of gambling devices, the conduct of gambling activity, or the provision of independent consultant services in connection with a gambling activity.

NEW SECTION. Sec. 2. A new section is added to chapter 67.70 RCW to read as follows:

The director, deputy directors, and any assistant directors of the state lottery and a member or employee of the lottery commission shall not:

- (1) Serve as an officer or manager of any corporation or organization which conducts a lottery or gambling activity;
- (2) Receive or share in, directly or indirectly, the gross profits of any lottery or other gambling activity regulated by the gambling commission;
- (3) Be beneficially interested in any contract for the manufacture or sale of gambling devices, the conduct of a lottery or other gambling activity, or the provision of independent consultant services in connection with a lottery or other gambling activity.

Passed the Senate January 20, 1986.

Passed the House February 24, 1986.

Approved by the Governor March 7, 1986.

Filed in Office of Secretary of State March 7, 1986.

CHAPTER 5

[Substitute Senate Bill No. 3532]

LIQUOR ESTABLISHMENTS—MINORS MAY STOCK OR HANDLE BEER OR WINE

AN ACT Relating to permissible acts on liquor licensed premises by persons under twenty-one years of age; and amending RCW 66.44.340.

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

Sec. 1. Section 1, chapter 38, Laws of 1969 ex. sess. as amended by section 48, chapter 5, Laws of 1981 1st ex. sess. and RCW 66.44.340 are each amended to read as follows:

Employers holding class E and/or F licenses exclusively are permitted to allow their employees, between the ages of eighteen and twenty-one years, to sell, stock, and handle beer or wine in, on or about any establishment holding a class E and/or class F license exclusively: PROVIDED, That there is an adult twenty-one years of age or older on duty supervising the sale of liquor at the licensed premises: PROVIDED, That minor employees may make deliveries of beer and/or wine purchased from licensees holding class E and/or class F licenses exclusively, when delivery is made to cars of customers adjacent to such licensed premises but only, however, when the minor employee is accompanied by the purchaser.

Passed the Senate February 12, 1986.

Passed the House February 25, 1986.

Approved by the Governor March 7, 1986.

Filed in Office of Secretary of State March 7, 1986.

CHAPTER 6

[Senate Bill No. 4456]

PARK PASSES—VETERANS

AN ACT Relating to veterans; and amending RCW 43.51.055.

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

Sec. 1. Section 1, chapter 330, Laws of 1977 ex. sess. as last amended by section 1, chapter 182, Laws of 1985 and RCW 43.51.055 are each amended to read as follows:

(1) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(2) The commission shall grant a senior citizen's pass to any person who applies for the same and who meets the following requirements:

(a) The person is at least sixty-two years of age; and

(b) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(c) The person and his or her spouse have a combined income which would qualify the person for a property tax exemption pursuant to RCW 84.36.381, as now law or hereafter amended. The financial eligibility requirements of this subparagraph (c) shall apply regardless of whether the

applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(3) Each senior citizen's pass granted pursuant to this section shall, unless renewed, expire on January 1 of the next year following the year in which it was issued. Any application for renewal of a senior citizen's pass shall, for purposes of the financial eligibility requirements of this section, be treated as an original application.

(4) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71.20.016 and 72.33.020 due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(5) A card, decal, or special license plate issued for a permanent disability under RCW 46.16.381 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(6) Any resident of Washington who is a veteran(~~(- is at least sixty= two years of age))~~) and has a service-connected disability of at least thirty percent(~~(;)~~) shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to free use of any campsite within any state park, and (b) entitle such person to free admission to any state park.

(7) All passes issued pursuant to this section shall be valid at all parks any time during the year: PROVIDED, That the pass shall not be valid for admission to concessionaire operated facilities.

(8) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(9) The commission shall adopt such rules and regulations as it finds appropriate for the administration of this section. Among other things, such rules and regulations shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such person, a minimum Washington residency requirement for applicants for a senior citizen's pass

and an application form to be completed by applicants for a senior citizen's pass.

Passed the Senate February 13, 1986.
 Passed the House February 26, 1986.
 Approved by the Governor March 7, 1986.
 Filed in Office of Secretary of State March 7, 1986.

CHAPTER 7

[Engrossed Senate Bill No. 4619]

DEPARTMENT OF NATURAL RESOURCES—TRUST LAND EXCHANGE—
 DEPARTMENT OF SOCIAL AND HEALTH SERVICES

AN ACT Relating to an exchange and subsequent use of federally granted trust lands; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The board of natural resources may exchange common school trust lands and state forest lands acquired pursuant to RCW 76.12.030 leased by the department of social and health services as sites for state institutions at Echo Glenn, Canyon Lakes, Woodinville, and Fircrest for land of equal value granted to the state for the support of charitable, educational, penal, and reformatory institutions. The department of social and health services shall not be charged rent for the use of these lands after the exchange is completed by the board of natural resources so long as the lands are used for institutional purposes.

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

Passed the Senate February 13, 1986.
 Passed the House February 24, 1986.
 Approved by the Governor March 7, 1986.
 Filed in Office of Secretary of State March 7, 1986.

CHAPTER 8

[Senate Bill No. 4770]

IRRIGATION DISTRICTS—DEFENSE OF OFFICERS, AGENTS, EMPLOYEES

AN ACT Relating to irrigation districts; and adding a new section to chapter 87.03 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 87.03 RCW to read as follows:

The board of directors of an irrigation district may authorize an attorney of its choosing to defend an officer, employee, or agent of the district, present or former, who requests representation as a result of an action, claim, or proceeding instituted against him or her. The costs of defense, including attorney's fees and any obligation for payment arising from the action, may be paid from district funds. Costs of defense, and judgment or settlement not in the person's favor, shall not be paid by the district if the court finds the person was not acting in good faith or within the scope of the person's employment or duties for the district.

Passed the Senate February 18, 1986.

Passed the House February 25, 1986.

Approved by the Governor March 7, 1986.

Filed in Office of Secretary of State March 7, 1986.

CHAPTER 9

[Substitute Senate Bill No. 4720]

INDUSTRIAL INSURANCE

AN ACT Relating to industrial insurance employer services; amending RCW 51.16.150, 51.16.170, 51.48.030, 51.48.040, 51.48.120, and 51.48.150; adding new sections to chapter 51.04 RCW; adding new sections to chapter 51.16 RCW; adding new sections to chapter 51.48 RCW; adding a new section to chapter 51.52 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 51.04 RCW to read as follows:

Any employer other than a self-insurer subject to this title shall, under such rules as the department shall prescribe, apply for and obtain from the department a certificate of coverage. The certificate shall be personal and nontransferable and shall be valid as long as the employer continues in business and pays the taxes due the state. In case the employer maintains more than one place of business, a separate certificate of coverage for each place at which business is transacted shall be required. Each certificate shall be numbered and shall show the name, residence, and place and character of business of the employer and such other information as the department deems necessary and shall be posted conspicuously at the place of business for which it is issued. Where a place of business of the employer is changed, the employer must notify the department within thirty days of the new address and a new certificate shall be issued for the new place of business. No employer may engage in any business for which taxes are due under this title without having a certificate of coverage in compliance with this section, except that the department, by general rule, may provide for the issuance of a certificate of coverage to employers with temporary places of business.

NEW SECTION. Sec. 2. A new section is added to chapter 51.04 RCW to read as follows:

Any notice or order required by this title to be mailed to any employer may be served in the manner prescribed by law for personal service of summons and complaint in the commencement of actions in the superior courts of the state, but if the notice or order is mailed, it shall be addressed to the address of the employer as shown by the records of the department, or, if no such address is shown, to such address as the department is able to ascertain by reasonable effort. Failure of the employer to receive such notice or order whether served or mailed shall not release the employer from any tax or any increases or penalties thereon.

NEW SECTION. Sec. 3. A new section is added to chapter 51.04 RCW to read as follows:

"Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, a major part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer.

Sec. 4. Section 51.16.150, chapter 23, Laws of 1961 as last amended by section 2, chapter 315, Laws of 1985 and RCW 51.16.150 are each amended to read as follows:

If any employer shall default in any payment to any fund, the sum due may be collected by action at law in the name of the state as plaintiff, and such right of action shall be in addition to any other right of action or remedy. If such default occurs after demand, ~~((there shall also be collected a penalty equal to twenty-five percent of the amount of the defaulted payment or payments, and))~~ the director may require from the defaulting employer a bond to the state for the benefit of any fund, with surety to the director's satisfaction, in the penalty of double the amount of the estimated payments which will be required from such employer into the said funds for and during the ensuing one year, together with any penalty or penalties incurred. In case of refusal or failure after written demand personally served to furnish such bond, the state shall be entitled to an injunction restraining the delinquent from prosecuting an occupation or work until such bond is furnished, and until all delinquent premiums, penalties, interest and costs are paid, conditioned for the prompt and punctual making of all payments into said funds during such periods, and any sale, transfer, or lease attempted to be made by such delinquent during the period of any of the defaults herein mentioned, of his works, plant, or lease thereto, shall be invalid until all past delinquencies are made good, and such bond furnished.

Sec. 5. Section 51.16.170, chapter 23, Laws of 1961 and RCW 51.16.170 are each amended to read as follows:

Separate and apart from and in addition to the foregoing provisions in this chapter, the claims of the state for payments and penalties due under this title shall be a lien prior to all other liens or claims and on a parity with

prior tax liens not only against the interest of any employer, (~~but against the interests of all others;~~) in real estate, plant, works, equipment, and buildings improved, operated, or constructed by any employer, and also upon any products or articles manufactured by such employer.

The lien created by this section shall attach from the date of the commencement of the labor upon such property for which such premiums are due. In order to avail itself of the lien hereby created, the department shall, within four months after the employer has made report of his payroll and has defaulted in the payment of his premiums thereupon, file with the county auditor of the county within which such property is then situated, a statement in writing describing in general terms the property upon which a lien is claimed and stating the amount of the lien claimed by the department. If any employer fails or refuses to make report of his payroll, the lien hereby created shall continue in full force and effect, although the amount thereof is undetermined and the four months' time within which the department shall file its claim of lien shall not begin to run until the actual receipt by the department of such payroll report. From and after the filing of such claim of lien, the department shall be entitled to commence suit to cause such lien to be foreclosed in the manner provided by law for the foreclosure of other liens on real or personal property, and in such suit the certificate of the department stating the date of the actual receipt by the department of such payroll report shall be prima facie evidence of such fact.

NEW SECTION. Sec. 6. A new section is added to chapter 51.16 RCW to read as follows:

Whenever any employer quits business, or sells out, exchanges, or otherwise disposes of the employer's business or stock of goods, any tax payable hereunder shall become immediately due and payable, and the employer shall, within ten days thereafter, make a return and pay the tax due; and any person who becomes a successor to such business shall become liable for the full amount of the tax and withhold from the purchase price a sum sufficient to pay any tax due from the employer until such time as the employer shall produce a receipt from the department showing payment in full of any tax due or a certificate that no tax is due and, if such tax is not paid by the employer within ten days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of tax, and the payment thereof by such successor shall, to the extent thereof, be deemed a payment upon the purchase price, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such successor from the employer.

No successor may be liable for any tax due from the person from whom that person has acquired a business or stock of goods if that person gives written notice to the department of such acquisition and no assessment is issued by the department within sixty days of receipt of such notice

against the former operator of the business and a copy thereof mailed to such successor.

NEW SECTION. Sec. 7. A new section is added to chapter 51.16 RCW to read as follows:

Any employer who has not complied with the cash deposit or bond in lieu of cash deposit requirements of RCW 51.16.110 shall have failed to secure the payment of compensation under this title and the department may collect the cash deposit pursuant to RCW 51.48.120 or by any other method of collection provided by this title.

Sec. 8. Section 51.48.030, chapter 23, Laws of 1961 as last amended by section 4, chapter 347, Laws of 1985 and RCW 51.48.030 are each amended to read as follows:

Every employer who fails to keep and preserve the records required by this title or fails to make the reports provided in this title shall be subject to a penalty determined by the director but not to exceed two hundred fifty dollars or two hundred percent of the quarterly ((premium)) tax for each such offense, whichever is greater. Any employer who fails to keep and preserve the records adequate to determine taxes due shall be forever barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department based on any period for which such records have not been kept and preserved.

Sec. 9. Section 51.48.040, chapter 23, Laws of 1961 as amended by section 5, chapter 347, Laws of 1985 and RCW 51.48.040 are each amended to read as follows:

The books, records and payrolls of the employer pertinent to the administration of this title shall always be open to inspection by the department or its traveling auditor, agent or assistant, for the purpose of ascertaining the correctness of the payroll, the ((men)) persons employed, and such other information as may be necessary for the department and its management under this title. Refusal on the part of the employer to submit his books, records and payrolls for such inspection to the department, or any assistant presenting written authority from the director, shall subject the offending employer to a penalty determined by the director but not to exceed two hundred fifty dollars for each offense and the individual who personally gives such refusal shall be guilty of a misdemeanor. Any employer who fails to allow adequate inspection in accordance with the requirements of this section is subject to having its certificate of coverage revoked by order of the department and is forever barred from questioning in any proceeding in front of the board of industrial insurance appeals or any court, the correctness of any assessment by the department based on any period for which such records have not been produced for inspection.

Sec. 10. Section 32, chapter 43, Laws of 1972 ex. sess. as amended by section 6, chapter 315, Laws of 1985 and RCW 51.48.120 are each amended to read as follows:

If any employer should default in any payment due to the state fund the director or ~~((his))~~ the director's designee may issue a notice of assessment certifying the amount due, which notice shall be served upon the employer by mailing such notice to the employer by ~~((registered))~~ certified mail to ~~((his))~~ the employer's last known address, accompanied by an affidavit of service by mailing, or served in the manner prescribed for the service of a summons in a civil action. Such notice shall contain the information that an appeal must be filed with the board of industrial insurance appeals and the director by mail or personally within thirty days of the date of service of the notice of assessment in order to appeal the assessment unless a written request for reconsideration is filed with the department of labor and industries.

Sec. 11. Section 35, chapter 43, Laws of 1972 ex. sess. and RCW 51.48.150 are each amended to read as follows:

The director or ~~((his))~~ the director's designee is hereby authorized to issue to any person, firm, corporation, municipal corporation, political subdivision of the state, a public corporation, or any agency of the state, a notice and order to withhold and deliver property of any kind whatsoever when he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or any agency of the state, property which is or shall become due, owing, or belonging to any employer upon whom a notice of assessment has been served by the department for payments due to the state fund. The effect of a notice and order to withhold and deliver shall be continuous from the date such notice and order to withhold and deliver is first made until the liability out of which such notice and order to withhold and deliver arose is satisfied or becomes unenforceable because of lapse of time. The department shall release the notice and order to withhold and deliver when the liability out of which the notice and order to withhold and deliver arose is satisfied or becomes unenforceable by reason of lapse of time and shall notify the person against whom the notice and order to withhold and deliver was made that such notice and order to withhold and deliver has been released.

The notice and order to withhold and deliver shall be served by the sheriff of the county or by ~~((his))~~ the sheriff's deputy, or by any duly authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation or any agency of the state upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the

possession of the party named and served with a notice and order to withhold and deliver, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or ~~((his))~~ the director's duly authorized representative upon ~~((demand to))~~ service of the notice to withhold and deliver which will be held in trust by the director for application on the employer's indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review, or in the alternative such party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. Should any party served and named in the notice to withhold and deliver fail to make answer to such notice and order to withhold and deliver, within the time prescribed herein, it shall be lawful for the court, after the time to answer such order has expired, to render judgment by default against the party named in the notice to withhold and deliver for the full amount claimed by the director in the notice to withhold and deliver together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, then the employer shall be entitled to assert in the answer to all exemptions provided for by chapter 7.33 RCW to which the wage earner may be entitled.

NEW SECTION. Sec. 12. A new section is added to chapter 51.48 RCW to read as follows:

(1) It is unlawful:

(a) For any employer to engage in business subject to this title without having obtained a certificate of coverage as provided for in this title;

(b) For the president, vice-president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business subject to this title without having obtained a certificate of coverage as provided for in this title.

Any person violating any of the provisions of this subsection is guilty of a gross misdemeanor punishable under RCW 9A.20.021.

(2) It is unlawful:

(a) For any employer to engage in business subject to this title after the employer's certificate of coverage has been revoked by order of the department;

(b) For the president, vice-president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business subject to this title after revocation of a certificate of coverage.

Any person violating any of the provisions of this subsection is guilty of a class C felony punishable under RCW 9A.20.021.

NEW SECTION. Sec. 13. A new section is added to chapter 51.48 RCW to read as follows:

If any warrant issued under this title is not paid within thirty days after it has been filed with the clerk of the superior court, or if any employer

is delinquent, for three consecutive reporting periods, in the transmission to the department of taxes due, the department may, by order issued under its official seal, revoke the certificate of coverage of the employer against whom the warrant was issued; and if the order is entered, a copy thereof shall be posted in a conspicuous place at the main entrance to the employer's place of business and shall remain posted until such time as the warrant has been paid. Any certificate so revoked shall not be reinstated, nor shall a new certificate of coverage be issued to the employer, until the amount due on the warrant has been paid, or provisions for payment satisfactory to the department have been entered, and until the taxpayer has deposited with the department such security for payment of any taxes, increases, and penalties, due or which may become due in an amount and under such terms and conditions as the department may require, but the amount of the security shall not be greater than one-half the estimated average annual taxes of the employer.

NEW SECTION. Sec. 14. A new section is added to chapter 51.48 RCW to read as follows:

If the director or the director's designee has reason to believe that an employer is insolvent or about to cease business, leave the state, or remove or dissipate assets out of which taxes or penalties might be satisfied, and the collection of any taxes accrued will be jeopardized by delaying collection, the director or the director's designee may make an immediate assessment thereof and may proceed to enforce collection immediately under the terms of sections 15 and 16 of this act, but interest and penalties shall not begin to accrue upon any taxes until the date when such taxes would normally have become delinquent.

NEW SECTION. Sec. 15. A new section is added to chapter 51.48 RCW to read as follows:

If the amount of taxes, interest, or penalties assessed by the director or the director's designee by order and notice of assessment pursuant to section 14 of this act is not paid within ten days after the service or mailing of the order and notice of assessment, the director or the director's designee may collect the amount stated in said assessment by the distraint, seizure, and sale of the property, goods, chattels, and effects of the delinquent employer. There shall be exempt from distraint and sale under this section such goods and property as are exempt from execution under the laws of this state.

NEW SECTION. Sec. 16. A new section is added to chapter 51.48 RCW to read as follows:

The director or the director's designee, upon making a distraint pursuant to sections 14 and 15 of this act, shall seize the property and shall make an inventory of the property distrained, a copy of which shall be mailed to the owner of such property or personally delivered to the owner, and shall

specify the time and place when the property shall be sold. A notice specifying the property to be sold and the time and place of sale shall be posted in at least two public places in the county wherein the seizure has been made. The time of sale shall be not less than twenty days from the date of posting of such notices. The sale may be adjourned from time to time at the discretion of the director or the director's designee, but not for a time to exceed in all sixty days. No sale shall take place if an appeal is pending. The sale shall be conducted by the director or the director's designee who shall proceed to sell such property by parcel or by lot at a public auction, and who may set a minimum price to include the expenses of making a levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the director or the director's designee may declare such property to be purchased by the department for such minimum price. In such event the delinquent account shall be credited with the amount for which the property has been sold. Property acquired by the department as herein prescribed may be sold by the director or the director's designee at public or private sale, and the amount realized shall be placed in the state of Washington industrial insurance fund.

In all cases of sale, as aforesaid, the director or the director's designee shall issue a bill of sale or a deed to the purchaser and the bill of sale or deed shall be prima facie evidence of the right of the director or the director's designee to make such sale and conclusive evidence of the regularity of the proceeding in making the sale, and shall transfer to the purchaser all right, title, and interest of the delinquent employer in said property. The proceeds of any such sale, except in those cases wherein the property has been acquired by the department, shall be first applied by the director or the director's designee in satisfaction of the delinquent account, and out of any sum received in excess of the amount of delinquent taxes, interest, and penalties the industrial insurance fund shall be reimbursed for the costs of distraint and sale. Any excess which shall thereafter remain in the hands of the director or the director's designee shall be refunded to the delinquent employer. Sums so refundable to a delinquent employer may be subject to seizure or distraint in the hands of the director or the director's designee by any other taxing authority of the state or its political subdivisions.

NEW SECTION. Sec. 17. A new section is added to chapter 51.48 RCW to read as follows:

(1) When there is probable cause to believe that there is property within this state not otherwise exempt from process or execution in the possession or control of any employer against whom a tax warrant issued under RCW 51.48.140 has been filed which remains unsatisfied, or an assessment issued pursuant to section 14 of this act, any judge of the superior court or district court in the county in which such property is located may, upon the request of the sheriff or agent of the department authorized to collect taxes,

issue a warrant directed to the officers commanding the search for and seizure of the property described in the request for warrant.

(2) The procedure for the issuance, and execution and return of the warrant authorized by this section and for return of any property seized shall be the criminal rules of the superior court and the district court.

(3) The sheriff or agent of the department shall levy execution upon property seized under this section as provided in sections 21 and 22 of this act.

(4) This section does not require the application for or issuance of any warrant not otherwise required by law.

NEW SECTION. Sec. 18. A new section is added to chapter 51.48 RCW to read as follows:

If payment of any tax due is not received by the department by the due date, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received within thirty days after the due date, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within sixty days after the due date, there shall be assessed a total penalty of twenty percent of the amount of the tax. No penalty so added may be less than ten dollars. If a warrant is issued by the department for the collection of taxes, increases, and penalties, there shall be added thereto a penalty of five percent of the amount of the tax, but not less than five dollars nor greater than one hundred dollars. Warrants shall earn interest at the rate of one percent of the amount of such warrant per month or fraction thereof from and after the date of entry of such warrant.

NEW SECTION. Sec. 19. A new section is added to chapter 51.52 RCW to read as follows:

All taxes, penalties, and interest shall be paid in full before any action may be instituted in any court to contest all or any part of such taxes, penalties, or interest unless the court determines that there would be an undue hardship to the employer. In the event an employer prevails in a court action, the employer shall be allowed interest on all taxes, penalties, and interest paid by the employer but determined by a final order of the court to not be due, from the date such taxes, penalties, and interest were paid. Interest shall be at the rate allowed by law as prejudgment interest.

NEW SECTION. Sec. 20. A new section is added to chapter 51.52 RCW to read as follows:

No restraining order or injunction may be granted or issued by any court to restrain or enjoin the collection of any tax or penalty or any part thereof, except upon the ground that the assessment thereof was in violation of the Constitution of the United States or that of the state.

NEW SECTION. Sec. 21. A new section is added to chapter 51.48 RCW to read as follows:

The department may issue an order of execution, pursuant to a filed warrant, under its official seal directed to the sheriff of the county in which the warrant has been filed, commanding the sheriff to levy upon and sell the real and/or personal property of the taxpayer found within the county, or so much thereof as may be necessary, for the payment of the amount of the warrant, plus the cost of executing the warrant, and return the warrant to the department and pay to it the money collected by virtue thereof within sixty days after the receipt of the warrant. The sheriff shall thereupon proceed upon the same in all respects and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgments of the superior court.

The sheriff shall be entitled to fees as provided by law for services in levying execution on a superior court judgment and the clerk shall be entitled to a filing fee as provided by law, which shall be added to the amount of the warrant.

The proceeds received from any sale shall be credited upon the amount due under the warrant and when the final amount due is received, together with interest, penalties, and costs, the judgment docket shall show the claim for taxes to be satisfied and the clerk of the court shall so note upon the docket. Any surplus received from any sale of property shall be paid to the taxpayer or to any lien holder entitled thereto. If the return on the warrant shows that the same has not been satisfied in full, the amount of the deficiency shall remain the same as a judgment against the taxpayer which may be collected in the same manner as the original amount of the warrant.

NEW SECTION. Sec. 22. A new section is added to chapter 51.48 RCW to read as follows:

In the discretion of the department, an order of execution of like terms, force, and effect may be issued and directed to any agent of the department authorized to collect taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall not be entitled to any fee or compensation in excess of the actual expenses paid in the performance of such duty, which shall be added to the amount of the warrant.

NEW SECTION. Sec. 23. A new section is added to chapter 51.48 RCW to read as follows:

When recovery is had in any suit or proceeding against an officer, agent, or employee of the department for any act done by that person or for the recovery of any money exacted by or paid to that person and by that person paid over to the department, in the performance of the person's official duty, and the court certifies that there was probable cause for the act done by such officer, agent, or employee, or that he or she acted under the direction of the department or an officer thereof, no execution shall issue

against such officer, agent, or employee, but the amount so recovered shall, upon final judgment, be paid by the department as an expense of operation.

Passed the Senate February 15, 1986.

Passed the House February 24, 1986.

Approved by the Governor March 7, 1986.

Filed in Office of Secretary of State March 7, 1986.

CHAPTER 10

[Senate Bill No. 4713]

INDUSTRIAL INSURANCE APPEALS—LIMITATIONS ON JUDGES

AN ACT Relating to industrial insurance appeals; and amending RCW 51.52.095.

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

Sec. 1. Section 51.52.095, chapter 23, Laws of 1961 as last amended by section 2, chapter 209, Laws of 1985 and RCW 51.52.095 are each amended to read as follows:

(1) The board, upon request of the worker, beneficiary, or employer, or upon its own motion, may direct all parties interested in an appeal, together with their attorneys, if any, to appear before it, a member of the board, or an authorized industrial appeals judge, for a conference for the purpose of determining the feasibility of settlement, the simplification of issues of law and fact, the necessity of amendments to the notice of appeal or other pleadings, the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, the limitation of the number of expert witnesses, and such other matters as may aid in the disposition of the appeal. Such conference may be held prior to the hearing, or it may be held during the hearing, at the discretion of the board member or industrial appeals judge conducting the same, in which case the hearing will be recessed for such conference. Following the conference, the board member or industrial appeals judge conducting the same, shall state on the record the results of such conference, and the parties present or their representatives shall state their concurrence on the record. Such agreement as stated on the record shall control the subsequent course of the proceedings, unless modified at a subsequent hearing to prevent manifest injustice. If agreement concerning final disposition of the appeal is reached by the parties present at the conference, or by the employer and worker or beneficiary, the board may enter a final decision and order in accordance therewith, providing the board finds such agreement is in conformity with the law and the facts.

(2) In order to carry out subsection (1) of this section, the board shall develop expertise to mediate disputes informally. Where possible, industrial appeals judges with a demonstrated history of successfully resolving disputes or who have received training in dispute resolution techniques shall be appointed to perform mediation functions. No industrial appeals judge who

mediates in a particular appeal may, without the consent of the parties, participate in writing the proposed decision and order in the appeal: PROVIDED, That this shall not prevent an industrial appeals judge from issuing a proposed decision and order responsive to a motion for summary disposition or similar motion. This section shall not operate to prevent the board from developing additional methods and procedures to encourage resolution of disputes by agreement or otherwise making efforts to reduce adjudication time.

Passed the Senate February 14, 1986.

Passed the House February 24, 1986.

Approved by the Governor March 7, 1986.

Filed in Office of Secretary of State March 7, 1986.

CHAPTER 11

[Substitute Senate Bill No. 4635]

UTILITIES AND TRANSPORTATION COMMISSION—SPECIAL JURISDICTIONAL PROCEEDINGS

AN ACT Relating to special jurisdictional proceedings of the utilities and transportation commission; and adding a new section to chapter 80.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 80.04 RCW to read as follows:

Whether or not any person or corporation is conducting business subject to regulation under this title, or has performed or is performing any act requiring registration or approval of the commission without securing such registration or approval, shall be a question of fact to be determined by the commission. Whenever the commission believes that any person or corporation is engaged in any activity without first complying with the requirements of this title, it may institute a special proceeding requiring such person or corporation to appear before the commission at a location convenient for witnesses and the production of evidence and produce information, books, records, accounts, and other memoranda, and give testimony under oath as to the activities being conducted. The commission may consider any and all facts that may indicate the true nature and extent of the operations or acts and may subpoena such witnesses and documents as it deems necessary.

After investigation, the commission is authorized and directed to issue the necessary order or orders declaring the activities to be subject to, or not subject to, the provisions of this title. In the event the activities are found to be subject to the provisions of this title, the commission shall issue such orders as may be necessary to require all parties involved in the activities to comply with this title, and with respect to services found to be reasonably available from alternative sources, to issue orders to cease and desist from providing jurisdictional services pending full compliance.

In proceedings under this section, no person or corporation may be excused from testifying or from producing any information, book, document, paper, or account before the commission when ordered to do so, on the ground that the testimony or evidence, information, book, document, or account required may tend to incriminate him or her or subject him or her to penalty or forfeiture specified in this title; but no person or corporation may be prosecuted, punished, or subjected to any penalty or forfeiture specified in this title for or on account of any account, transaction, matter, or thing concerning which he or she shall under oath have testified or produced documentary evidence in proceedings under this section: PROVIDED, That no person so testifying may be exempt from prosecution or punishment for any perjury committed by him or her in such testimony: PROVIDED FURTHER, That the exemption from prosecution in this section extends only to violations of this title.

Passed the Senate February 15, 1986.

Passed the House February 26, 1986.

Approved by the Governor March 7, 1986.

Filed in Office of Secretary of State March 7, 1986.

CHAPTER 12

[Senate Bill No. 4528]

PUBLIC DISCLOSURE REPORTING—COMMISSION ORDERS

AN ACT Relating to public disclosure; and amending RCW 42.17.030, 42.17.090, and 42.17.405.

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

Sec. 1. Section 3, chapter 1, Laws of 1973 as last amended by section 2, chapter 367, Laws of 1985 and RCW 42.17.030 are each amended to read as follows:

~~((f))~~ The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than ~~((a))~~ (1) for precinct committeeman; ~~((b))~~ (2) for a federal elective office; and ~~((c))~~ (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405(2) through (5).

~~((2))~~ The exemption in subsection (1)(c) of this section does not apply in any jurisdiction from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the jurisdiction, is filed with the commission. The commission shall prescribe by rule the form of the petition. After the signatures are gathered, the petition shall be presented to

~~the auditor or elections officer of the county, or counties, in which the jurisdiction is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no fewer than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every candidate, political committee, or person making independent expenditures in election campaigns in the jurisdiction to comply with the campaign finance reporting provisions of this chapter within fourteen days of the date of the order. The order of the commission is valid for any election occurring in the jurisdiction for a two-year period following its issuance:~~

~~(3) The exemption in subsection (1)(c) of this section does not apply in any jurisdiction that by ordinance, resolution, or other official action has petitioned the commission to void the exemption with respect to election campaigns in the jurisdiction. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall issue an order voiding the exemption for that jurisdiction. The commission, upon approval of the action, shall order every candidate, political committee, or person making independent expenditures in the jurisdiction to comply with the campaign finance reporting provisions of this chapter within fourteen days of the date of the order. The order applies to all elections in the jurisdiction for two years after its issuance:~~

~~(4) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in subsection (1)(c) of this section shall not be considered unless it has been filed with the commission:~~

~~(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;~~

~~(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required:~~

~~(5) Any person exempted from reporting under this section may at his or her option file the statements and reports:))~~

Sec. 2. Section 9, chapter 1, Laws of 1973 as last amended by section 1, chapter 96, Laws of 1983 and RCW 42.17.090 are each amended to read as follows:

(1) Each report required under RCW 42.17.080 (1) and (2), as now or hereafter amended, shall disclose for the period beginning at the end of the period for the last report or, in the case of an initial report, at the time of the first contribution or expenditure, and ending not more than five days prior to the date the report is due:

(a) The funds on hand at the beginning of the period;

(b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of

such contributions and the aggregate value of all contributions received from each such person during the campaign or in the case of a continuing political committee, the current calendar year: PROVIDED, That the income which results from the conducting of a fund-raising activity which has previously been reported in accordance with RCW 42.17.067 may be reported as one lump sum, with the exception of that portion of such income which was received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067: PROVIDED FURTHER, That contributions of less than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum so long as the campaign treasurer maintains a separate and private list of the names, addresses, and amounts of each such contributor;

(c) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, together with the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

(d) The name and address of each political committee from which the reporting committee or candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts, dates, and purpose of all such transfers. Information regarding the following shall be contained in a separate category of the report bearing the title "Transfer of funds": Contributions made from the campaign depository of one candidate to the campaign of another candidate; and contributions received by a candidate, or for the campaign of the candidate, from the campaign depository of another candidate;

(e) All other contributions not otherwise listed or exempted;

(f) The name and address of each person to whom an expenditure was made in the aggregate amount of fifty dollars or more, and the amount, date, and purpose of each such expenditure;

(g) The total sum of expenditures;

(h) The surplus or deficit of contributions over expenditures;

(i) The disposition made in accordance with RCW 42.17.095 of any surplus funds;

(j) Such other information as shall be required by the commission by regulation in conformance with the policies and purposes of this chapter; and

(k) Funds received from a political committee not domiciled in Washington state (~~and~~) or not otherwise required to report under this chapter (a "nonreporting committee"). Such funds shall be forfeited to the state of Washington unless the nonreporting committee or the recipient of such funds has filed or within ten days following such receipt shall file with the commission a statement disclosing: (i) its name and address; (ii) the purposes of the nonreporting committee; (iii) the names, addresses, and

titles of its officers or if it has no officers, the names, addresses, and titles of its responsible leaders; (iv) a statement whether the nonreporting committee is a continuing one; (v) the name, office sought, and party affiliation of each candidate in the state of Washington whom the nonreporting committee is supporting, and, if such committee is supporting the entire ticket of any party, the name of the party; (vi) the ballot proposition supported or opposed in the state of Washington, if any, and whether such committee is in favor of or opposed to such proposition; (vii) the name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more contributions in the aggregate of twenty-five dollars or more to the nonreporting committee during the current calendar year, together with the money value and date of such contributions; (viii) the name and address of each person in the state of Washington to whom an expenditure was made by the nonreporting committee on behalf of a candidate or political committee in the aggregate amount of twenty-five dollars or more, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; (ix) such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter. A nonreporting committee incurring an obligation to file additional reports in a calendar year may satisfy the obligation by filing with the commission a letter providing updating or amending information.

(2) The campaign treasurer and the candidate shall certify the correctness of each report.

Sec. 3. Section 1, chapter 60, Laws of 1982 as amended by section 13, chapter 367, Laws of 1985 and RCW 42.17.405 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the reporting provisions of this chapter do not apply to candidates, elected officials, and agencies in ~~((jurisdictions))~~ political subdivisions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction, to political committees formed to support or oppose candidates or ballot propositions in such ~~((jurisdictions))~~ political subdivisions, or to persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any ~~((jurisdiction))~~ exempt political subdivision from which a "petition for disclosure" containing the valid signatures of ~~((five))~~ fifteen percent of the number of registered voters, as of the date of the most recent general election in the ~~((jurisdiction))~~ political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the ~~((jurisdiction))~~ political subdivision is located. The auditor or elections officer shall verify the signatures

and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every ~~((incumbent elected official and candidate))~~ known affected person in the ((jurisdiction)) political subdivision to file the initially required statement and reports within ((thirty)) fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any ~~((jurisdiction which))~~ exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the ~~((jurisdiction))~~ exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall ~~((issue an appropriate order. The commission, upon approval of the action, shall))~~ order every ~~((incumbent elected official and candidate))~~ known affected person in the ((jurisdiction)) political subdivision to file the initially required statement and reports within ((thirty)) fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17.030(3) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting ~~((by subsection (1) of this section))~~ under this chapter may at his or her option file the statement and reports.

Passed the Senate February 14, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 13

[House Bill No. 1702]

COMMUNITY RESIDENTIAL PROGRAMS FOR THE DEVELOPMENTALLY
DISABLED—ADDITIONAL COMMUNITY BEDS—APPROPRIATION

AN ACT Relating to community residential programs for the developmentally disabled; making appropriations and authorizing expenditures for the operations of community residential programs for the developmentally disabled for the fiscal biennium beginning July 1, 1985, and ending June 30, 1987; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The sum of \$741,000 from the general fund—state and \$215,000 from the general fund—federal, or so much as may be necessary, is appropriated for the biennium ending June 30, 1987, to the department of social and health services to provide for the establishment and operations of 42 additional community beds and related services for developmentally disabled clients.

NEW SECTION. Sec. 2. The secretary of social and health services shall adopt rules to assure that fiscal commitments are not made by the department to persons requesting to develop new community residential services for the developmentally disabled beyond the appropriated fund level.

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

Passed the House February 11, 1986.

Passed the Senate February 27, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 14

[Engrossed Senate Bill No. 4527]

COMMODITY SALES

AN ACT Relating to commodities and securities licensing; amending RCW 21.20.110; adding a new chapter to Title 21 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administrator" means the person designated by the director in accordance with the provisions of RCW 21.20.460.

(2) "Board of trade" means any person or group of persons engaged in buying or selling any commodity or receiving any commodity for sale on

consignment, whether such person or group of persons is characterized as a board of trade, exchange, or other form of marketplace.

(3) "Director" means the director of the department of licensing.

(4) "Commodity broker-dealer" means, for the purposes of registration in accordance with this chapter, any person engaged in the business of making offers, sales, or purchases of commodities under commodity contracts or under commodity options.

(5) "Commodity sales representative" means, for the purposes of registration in accordance with this chapter, any person employed by or representing a commodity broker-dealer or issuer in making an offer, sale, or purchase of any commodity under any commodity contract or under commodity option.

(6) "Commodity exchange act" means the act of congress known as the commodity exchange act, as amended, codified at 7 U.S.C. Sec. 1 et seq.

(7) "Commodity futures trading commission" means the independent regulatory agency established by congress to administer the commodity exchange act.

(8) "CFTC rule" means any rule, regulation, or order of the commodity futures trading commission in effect on the effective date of this act and all subsequent amendments, additions, or other revisions thereto, unless the administrator, within ten days following the effective date of any such amendment, addition, or revision, disallows the application thereof by rule or order.

(9) "Commodity" means, except as otherwise specified by the director by rule or order, any agricultural, grain, or livestock product or by-product, any metal or mineral (including a precious metal set forth in subsection (17) of this section), any gem or gemstone (whether characterized as precious, semiprecious, or otherwise), any fuel (whether liquid, gaseous, or otherwise), any foreign currency, and all other goods, articles, products, or items of any kind. However, the term commodity does not include (a) a numismatic coin whose fair market value is at least fifteen percent higher than the value of the metal it contains, (b) real property or any timber, agricultural, or livestock product grown or raised on real property and offered or sold by the owner or lessee of such real property, or (c) any work of art offered or sold by art dealers, at public auction, or offered or sold through a private sale by the owner thereof.

(10) "Commodity contract" means any account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or

otherwise. Any commodity contract offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purposes. A commodity contract shall not include any contract or agreement which requires, and under which the purchaser receives, within twenty-eight calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

(11) "Commodity option" means any account, agreement, or contract giving a party thereto the right to purchase or sell one or more commodities and/or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise, but does not include a commodity option traded on a national securities exchange registered with the United States securities and exchange commission.

(12) "Commodity merchant" means any of the following, as defined or described in the commodity exchange act or by CFTC rule:

- (a) Futures commission merchant;
- (b) Commodity pool operator;
- (c) Commodity trading advisor;
- (d) Introducing broker;
- (e) Leverage transaction merchant;
- (f) An associated person of any of the foregoing;
- (g) Floor broker; and

(h) Any other person (other than a futures association) required to register with the commodity futures trading commission.

(13) "Financial institution" means a bank, savings institution, or trust company organized under, or supervised pursuant to, the laws of the United States or of any state.

(14) "Offer" or "offer to sell" includes every offer, every attempt to offer to dispose of, or solicitation of an offer to buy, to purchase, or to acquire, for value.

(15) "Sale" or "sell" includes every sale, contract of sale, contract to sell, or disposition, for value.

(16) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government, but does not include a contract market designated by the commodity futures trading commission or any clearinghouse thereof or a national securities exchange registered with the United States securities and exchange commission (or any employee, officer, or director of such contract market, clearinghouse, or exchange acting solely in that capacity).

(17) "Precious metal" means:

- (a) Silver, in either coin, bullion, or other form;

- (b) Gold, in either coin, bullion, or other form;
- (c) Platinum, in either coin, bullion, or other form; and
- (d) Such other items as the director may specify by rule or order.

NEW SECTION. Sec. 2. Except as otherwise provided in sections 3 and 4 of this act, no person may sell or purchase or offer to sell or purchase any commodity under any commodity contract or under any commodity option or offer to enter into or enter into as seller or purchaser any commodity contract or any commodity option.

NEW SECTION. Sec. 3. The prohibition in section 2 of this act does not apply to any transaction offered by and in which any of the following persons (or any employee, officer, or director thereof acting solely in that capacity) is the purchaser or seller:

- (1) A person registered with the commodity futures trading commission as a futures commission merchant or as a leverage transaction merchant but only as to those activities that require such registration;
- (2) A person affiliated with, and whose obligations and liabilities are guaranteed by, a person referred to in subsection (1) or (5) of this section;
- (3) A person who is a member of a contract market designated by the commodity futures trading commission (or any clearinghouse thereof);
- (4) A financial institution;
- (5) A person registered under chapter 21.20 RCW as a securities broker-dealer holding a general securities license whose activities require such registration; or
- (6) A person registered as a commodity broker-dealer or commodity sales representative in accordance with this chapter.

"Registered," for the purposes of this section, means holding a registration that has not expired, been suspended, or been revoked. The exemptions under this section shall not apply to any transaction or activity which is prohibited by the commodity exchange act or CFTC rule.

NEW SECTION. Sec. 4. (1) The prohibition in section 2 of this act does not apply to the following:

(a) An account, agreement, or transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under the commodity exchange act;

(b) A commodity contract for the purchase of one or more precious metals which requires, and under which the purchaser receives, within seven calendar days from the payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased by such payment. However, for purposes of this paragraph, physical delivery is deemed to have occurred if, within such seven-day period, the quantity of precious metals purchased by the payment is delivered (whether in specifically segregated or fungible bulk form) into the possession of a depository (other than the seller) which is either (i) a financial institution, (ii)

a depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission, (iii) a storage facility licensed or regulated by the United States or any agency thereof, or (iv) a depository designated by the director, and the depository (or other person which itself qualifies as a depository as aforesaid) issues and the purchaser receives, a certificate, document of title, confirmation, or other instrument evidencing that the quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, which have previously been disclosed to the purchaser;

(c) A commodity contract solely between persons engaged in producing, processing, using commercially, or handling as merchants each commodity subject thereto, or any by-products thereof; or

(d) A commodity contract under which the offeree or the purchaser is a person referred to in section 3 of this act, a person registered with the federal securities and exchange commission as a broker-dealer, an insurance company, an investment company as defined in the federal investment company act of 1940, or an employee pension and profit sharing or benefit plan (other than a self-employed individual retirement plan, or individual retirement account).

(2) The director may issue rules or orders prescribing the terms and conditions of all transactions and contracts covered by this chapter which are not within the exclusive jurisdiction of the commodity futures trading commission as granted by the commodity exchange act, exempting any person or transaction from any provision of this chapter conditionally or unconditionally and otherwise implementing this chapter for the protection of purchasers and sellers of commodities.

NEW SECTION. Sec. 5. (1) No person may engage in a trade or business or otherwise act as a commodity merchant unless the person (a) is registered or temporarily licensed with the commodity futures trading commission for each activity constituting the person as a commodity merchant and the registration or temporary license has not expired, been suspended, or been revoked; or (b) is exempt from such registration by virtue of the commodity exchange act or a CFTC rule.

(2) No board of trade may trade, or provide a place for the trading of, any commodity contract or commodity option required to be traded on or subject to the rules of a contract market designated by the commodity futures trading commission unless the board of trade has been so designated for the commodity contract or commodity option and the designation has not been vacated, suspended, or revoked.

NEW SECTION. Sec. 6. No person may directly or indirectly, in or in connection with the purchase or sale of, the offer to sell, the offer to enter into, or the entry into of, any commodity contract or commodity option subject to section 2, 3, 4(1)(b), or 4(1)(d) of this act:

(1) Cheat or defraud, or attempt to cheat or defraud, any other person or employ any device, scheme, or artifice to defraud any other person;

(2) Make any false report, enter any false record, or make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(3) Engage in any transaction, act, practice, or course of business, including, without limitation, any form of advertising or solicitation, that operates or would operate as a fraud or deceit upon any person; or

(4) Misappropriate or convert the funds, security, or property of any other person.

NEW SECTION. Sec. 7. (1) The act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of the person's employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust, as well as of such official, agent, or other person.

(2) Every person who directly or indirectly controls another person liable under any provision of this chapter, every partner, officer, or director of such other person, every person occupying a similar status or performing similar functions, every employee of such other person who materially aids in the violation is also liable jointly and severally with and to the same extent as such other person, unless the person who is also liable by virtue of this provision sustains the burden of proof that he or she did not know, and in exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

NEW SECTION. Sec. 8. (1) Sections 2, 5, and 6 of this act apply to persons who sell or offer to sell when an offer to sell is made in this state or an offer to buy is made and accepted in this state.

(2) Sections 2, 5, and 6 of this act apply to persons who buy or offer to buy when an offer to buy is made in this state or an offer to sell is made and accepted in this state.

(3) For the purpose of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the offeror to this state and received at the place to which it is directed, or at any post office in this state in the case of a mailed offer.

(4) For the purpose of this section, an offer to buy or to sell is accepted in this state when acceptance is communicated to the offeror in this state

and has not previously been communicated to the offeror, orally or in writing, outside this state, or whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed, or at any post office in this state in the case of a mailed acceptance.

NEW SECTION. Sec. 9. (1) For the purpose of section 8 of this act, an offer to sell or to buy is not made in this state when the publisher circulates or there is circulated on his behalf in this state in any bona fide newspaper or other publication of general, regular, and paid circulation, which is not published in this state, an offer to sell or to buy that is reasonably calculated to solicit only persons outside this state and not to solicit persons in this state.

(2) For the purpose of section 8 of this act, an offer to sell or to buy is not made in this state when a radio or television program or other electronic communication originating outside this state is received in this state and the offer to sell or to buy is reasonably calculated to solicit only persons outside this state and not to solicit persons in this state.

NEW SECTION. Sec. 10. The director in the director's discretion:

(1) May make such public or private investigations, within or without the state, as the director finds necessary or appropriate to determine whether any person has violated, or is about to violate, any provision of this chapter or any rule or order of the director or to aid in enforcement of this chapter;

(2) May require or permit any person to file a statement in writing, under oath or otherwise as the director may determine; and

(3) May publish information concerning any violation of this chapter or any rule or order under this chapter.

NEW SECTION. Sec. 11. (1) For purposes of any investigation or proceeding under this chapter, the director or any officer or employee designated by the director, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director finds to be relevant or material to the inquiry.

(2) If a person does not give testimony or produce the documents required by the director or a designated employee pursuant to a lawfully issued administrative subpoena, the director or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony. The request for an order of compliance may be addressed to either: (a) The superior court of Thurston county or the superior court where service may be obtained on the person refusing to testify or produce, if the person is within this state; or (b) the appropriate

court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside the state.

NEW SECTION. Sec. 12. (1) If the director believes, whether or not based upon an investigation conducted under section 10 or 11 of this act, that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter or any rule or order hereunder, the director may:

- (a) Issue a cease and desist order;
- (b) Initiate any of the actions specified in subsection (2) of this section;
- (c) Issue an order imposing a civil penalty in an amount which may not exceed ten thousand dollars for any single violation or one hundred thousand dollars for multiple violations in a single proceeding or a series of related proceedings; or

(d) Take disciplinary action against a licensed person as specified in section 36 of this act.

(2) The director may institute any of the following actions in the appropriate courts of the state, or in the appropriate courts of another state, in addition to any legal or equitable remedies otherwise available:

- (a) A declaratory judgment;
- (b) An action for a prohibitory or mandatory injunction to enjoin the violation and to ensure compliance with this chapter or any rule or order of the director;

(c) An action for disgorgement; or

(d) An action for appointment of a receiver or conservator for the defendant or the defendant's assets.

(3) In any action under subsection (2) of this section if the director prevails, the director shall be entitled to costs and to reasonable attorneys' fees to be fixed by the court.

NEW SECTION. Sec. 13. (1) (a) Upon a proper showing by the director that a person has violated, or is about to violate, this chapter or any rule or order of the department, the superior court may grant appropriate legal or equitable remedies.

(b) Upon showing of violation of this chapter or a rule or order of the director or administrator, the court, in addition to legal and equitable remedies otherwise available, including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions, and writs of prohibition or mandamus, may grant the following special remedies:

(i) Imposition of a civil penalty in an amount which may not exceed ten thousand dollars for any single violation or one hundred thousand dollars for multiple violations in a single proceeding or a series of related proceedings;

(ii) Disgorgement;

(iii) Declaratory judgment;

(iv) Restitution to investors wishing restitution; and

(v) Appointment of a receiver or conservator for the defendant or the defendant's assets.

(c) Appropriate remedies when the defendant is shown only about to violate this chapter or a rule or order of the department shall be limited to:

- (i) A temporary restraining order;
- (ii) A temporary or permanent injunction; or
- (iii) A writ of prohibition or mandamus.

(2) The court shall not require the director to post a bond in any official action under this chapter.

NEW SECTION. Sec. 14. A person who wilfully violates this chapter, or who wilfully violates a rule or order under this chapter, shall upon conviction be fined not more than twenty thousand dollars or imprisoned not more than ten years, or both. However, no person may be imprisoned for the violation of a rule or order if the person proves that he or she had no knowledge of the rule or order. No indictment or information may be returned under this chapter more than five years after the alleged violation.

NEW SECTION. Sec. 15. No provision of this chapter imposing any liability applies to any act done or omitted in good faith in conformity with a rule, order, or form adopted by the director, notwithstanding that the rule, order, or form may later be amended, or rescinded, or be determined by judicial or other authority to be invalid for any reason.

NEW SECTION. Sec. 16. The director shall appoint a competent person to administer this chapter, who shall be designated the administrator. The director shall delegate to the administrator such powers, subject to the authority of the director, as may be necessary to carry out this chapter. The administrator shall hold office at the pleasure of the director.

NEW SECTION. Sec. 17. Neither the director nor any employee of the director shall use any information which is filed with or obtained by the department which is not public information for personal gain or benefit, nor shall the director nor any employee of the director conduct any securities or commodity dealings whatsoever based upon any such information, even though public, if there has not been a sufficient period of time for the securities or commodity markets to assimilate the information.

NEW SECTION. Sec. 18. (1) All information collected, assembled, or maintained by the director under this chapter is public information and is available for the examination of the public as provided by chapter 42.17 RCW except the following:

(a) Information obtained in private investigations pursuant to section 10 or 11 of this act;

(b) Information exempt from public disclosure under chapter 42.17 RCW; and

(c) Information obtained from federal or state agencies which may not be disclosed under federal or state law.

(2) The director in the director's discretion may disclose any information made confidential under subsection (1)(a) of this section to persons identified in section 19 of this act.

(3) No provision of this chapter either creates or derogates from any privilege which exists at common law, by statute, or otherwise when any documentary or other evidence is sought under subpoena directed to the director or any employee of the director.

NEW SECTION. Sec. 19. (1) To encourage uniform application and interpretation of this chapter and securities and commodities regulation and enforcement in general, the director and the employees of the director may cooperate, including bearing the expense of the cooperation, with the securities agencies or administrators of another jurisdiction, Canadian provinces, or territories or such other agencies administering this chapter or similar statutes, the commodity futures trading commission, the federal securities and exchange commission, any self-regulatory organization established under the commodity exchange act or the securities exchange act of 1934, any national or international organization of commodities or securities officials or agencies, and any governmental law enforcement agency.

(2) The cooperation authorized by subsection (1) of this section shall include, but need not be limited to, the following:

- (a) Making joint examinations or investigations;
- (b) Holding joint administrative hearings;
- (c) Filing and prosecuting joint litigation;
- (d) Sharing and exchanging information and documents;
- (e) Formulating and adopting mutual regulations, statements of policy, guidelines, proposed statutory changes and releases; and
- (f) Issuing and enforcing subpoenas at the request of the agency administering similar statutes in another jurisdiction, the securities agency of another jurisdiction, the commodity futures trading commission or the federal securities and exchange commission if the information sought would also be subject to lawful subpoena for conduct occurring in this state.

NEW SECTION. Sec. 20. (1) Every applicant for registration under this chapter shall file with the administrator in such form as the administrator by rule prescribes, an irrevocable consent appointing the administrator or successor in office to be his or her attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or successor executor or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless (a) the plaintiff, who may be the administrator in a suit, action, or proceeding instituted by the administrator, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at the last address on file

with the administrator, and (b) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(2) If a person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order of the director, the engaging in the conduct shall constitute the appointment of the administrator as the person's attorney to receive service of any lawful process in a noncriminal proceeding against the person, a successor, or personal representative, which arises out of that conduct and which is brought under this chapter or any rule or order of the director with the same force and validity as if served personally.

NEW SECTION. Sec. 21. (1) The director shall commence an administrative proceeding under this chapter by entering either a statement of charges or a summary order. The statement of charges or summary order may be entered without notice, without opportunity for hearing, and need not be supported by findings of fact or conclusions of law, but must be in writing.

(2) Upon entry of the statement of charges or summary order, the director shall promptly inform all interested parties that they have twenty business days from receipt of notice of the statement of charges or the summary order to file a written request for a hearing on the matter with the director and that the hearing will be scheduled to commence within thirty business days after receipt of the written request.

(3) If no hearing is requested within the twenty-day period and none is ordered by the director, the statement of charges or summary order will automatically become a final order.

(4) If a hearing is requested or ordered, the director, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination.

(5) No final order or order after hearing may be returned without:

- (a) Appropriate notice to all interested persons;
- (b) Opportunity for hearing by all interested persons; and
- (c) Entry of written findings of fact and conclusions of law.

(6) Every hearing in an administrative proceeding under this chapter shall be public unless the director grants a request joined in by all the respondents that the hearing be conducted privately.

NEW SECTION. Sec. 22. Chapter 34.04 RCW applies to an administrative proceeding carried out by the director under this chapter unless otherwise provided in this chapter.

NEW SECTION. Sec. 23. It shall not be necessary to negate any of the exemptions, or exceptions from a definition, of this chapter in any complaint, information, or indictment, or any writ or proceeding brought under

this chapter; and the burden of proof of any such exemption or exception from a definition shall be on the party claiming the same.

NEW SECTION. Sec. 24. An applicant for licensing as a commodity broker-dealer or commodity sales representative shall file with the administrator or the designee of the administrator an application for licensing together with a consent to service of process pursuant to section 20 of this act. The application for licensing must contain the information that the administrator determines, by rule, is necessary or appropriate to facilitate the administration of this chapter.

NEW SECTION. Sec. 25. (1) An applicant for licensing shall pay a registration fee as follows:

(a) For a commodity broker-dealer, two hundred dollars; and for each branch office, one hundred dollars; and

(b) For a commodity sales representative, fifty dollars.

(2) Except in any year in which a licensing fee is paid, an applicant shall pay an annual fee as follows:

(a) For a commodity broker-dealer, one hundred dollars; and for each branch office in this state, fifty dollars; and

(b) For a commodity sales representative, thirty-five dollars.

(3) For purposes of this section, a branch office means each office of a commodity broker-dealer in this state, other than the principal office in this state of the commodity broker-dealer, from which three or more commodity sales representatives transact business.

(4) If an application is denied or withdrawn or the license is terminated by revocation, cancellation, or withdrawal, the administrator shall retain the fee paid.

NEW SECTION. Sec. 26. (1) The administrator may, by rule or order, impose an examination requirement upon:

(a) An applicant applying for licensing under this chapter; and

(b) Any class of applicants.

(2) Any examination required may be administered by the administrator or a designee of the administrator. Examinations may be oral, written, or both and may differ for each class of applicants.

(3) The administrator may, by order, waive any examination requirement imposed pursuant to subsection (1) of this section as to any applicant if the administrator determines that the examination is not necessary in the public interest and for the protection of investors.

NEW SECTION. Sec. 27. (1) The license of a commodity broker-dealer or commodity sales representative expires on December 31 of the year for which issued or at such other time as the administrator may by rule prescribe.

(2) The license of a commodity sales representative is only effective with respect to transactions effected as an employee or representative on

behalf of the commodity broker-dealer or issuer for whom the commodity sales representative is licensed.

(3) When a commodity sales representative begins or terminates association with a commodity broker-dealer or issuer, or begins or terminates activities which make that person a commodity sales representative, the commodity sales representative and the former commodity broker-dealer or issuer on whose behalf the commodity sales representative was acting shall notify promptly the administrator or the administrator's designee.

NEW SECTION. Sec. 28. No person may at any one time act as a commodity sales representative for more than one commodity broker-dealer or one issuer, except (1) where the commodity broker-dealers for whom the commodity sales representative will act are affiliated by direct or indirect common control, a commodity sales representative may represent each of those organizations or (2) where the administrator, by rule or order, authorizes multiple licenses as consistent with the public interest and protection of investors.

NEW SECTION. Sec. 29. If the administrator determines, by rule, that one or more classifications of licenses as a commodity broker-dealer or commodity sales representative which are subject to limitations and conditions on the nature of the activities which may be conducted by those persons are consistent with the public interest and the protection of investors, the administrator may authorize the licensing of persons subject to specific limitations and conditions.

NEW SECTION. Sec. 30. For so long as a commodity broker-dealer or commodity sales representative is licensed under this chapter, it shall file an annual report, together with the annual fee specified in section 25(2) of this act, with the administrator or the administrator's designee at a time and including that information that the administrator determines, by rule or order, is necessary or appropriate.

NEW SECTION. Sec. 31. (1) (a) The administrator may, by rule, require a licensed commodity broker-dealer to maintain: (i) Minimum net capital; and (ii) a prescribed ratio between net capital and aggregate indebtedness. The minimum net capital and net capital-to-aggregate indebtedness ratio may vary with type or class of commodity broker-dealer.

(b) If a licensed commodity broker-dealer believes, or has reasonable cause to believe, that any requirement imposed on it under this subsection is not being met, it shall promptly notify the administrator of its current financial condition.

(2) The administrator may, by rule, require the furnishing of fidelity bonds from commodity broker-dealers.

NEW SECTION. Sec. 32. A licensed commodity broker-dealer shall file financial and other reports that the administrator determines, by rule, are necessary or appropriate.

NEW SECTION. Sec. 33. (1) A licensed commodity broker-dealer or commodity sales representative shall make and maintain records that the administrator determines, by rule, are necessary or appropriate.

(2) Required records may be maintained in computer or microform format or any other form of data storage provided that the records are readily accessible to the administrator.

(3) Required records must be preserved for five years unless the administrator, by rule, specifies either a longer or shorter period for a particular type or class of records.

NEW SECTION. Sec. 34. If the information contained in any document filed with the administrator or the administrator's designee pursuant to section 24 or 32 of this act, except for those documents which the administrator, by rule or order, may exclude from this requirement, is or becomes inaccurate or incomplete in any material respect, the licensed person shall promptly file a correcting amendment, unless notification of the correction has been given under section 27(3) of this act.

NEW SECTION. Sec. 35. (1) The administrator, without prior notice, may examine the records and require copies of the records which a licensed commodity broker-dealer or commodity sales representative is required to make and maintain under section 33 of this act, within or without this state, in a manner reasonable under the circumstances. Commodity broker-dealers and commodity sales representatives must make their records available to the administrator in a readable form.

(2) The administrator may copy records or require a licensed person to copy records and provide the copies to the administrator in a manner reasonable under the circumstances.

(3) The administrator may impose reasonable fees for conducting an examination pursuant to this section.

NEW SECTION. Sec. 36. (1) The administrator may, by order, deny, suspend, or revoke any license, limit the activities which an applicant or licensed person may perform in this state, conserve any applicant or licensed person, or bar any applicant or licensed person from association with a licensed commodity broker-dealer, if the administrator finds that (a) the order is in the public interest and (b) that the applicant or licensed person or, in the case of a commodity broker-dealer any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the commodity broker-dealer:

(i) Has filed an application for licensing with the administrator or the designee of the administrator which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(ii) (A) Has violated or failed to comply with a provision of this chapter, a predecessor act, or a rule or order under this chapter or a predecessor act, (B) is the subject of an adjudication or determination within the last five years by a securities agency or administrator or court of competent jurisdiction that the person has wilfully violated the federal securities act of 1933, the securities exchange act of 1934, the investment advisers act of 1940, the investment company act of 1940, or the commodity exchange act, or the securities law of any other state (but only if the acts constituting the violation of that state's law would constitute a violation of this chapter had the acts taken place in this state);

(iii) Has, within the last ten years, pled guilty or nolo contendere to, or been convicted of any crime indicating a lack of fitness to engage in the investment commodities business;

(iv) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in, or continuing, any conduct or practice indicating a lack of fitness to engage in the investment commodities business;

(v) Is the subject of an order of the administrator denying, suspending, or revoking the person's license as a commodity or securities broker-dealer, securities salesperson or commodity sales representative, or investment adviser or investment adviser salesperson;

(vi) Is the subject of any of the following orders which are currently effective and which were issued within the last five years:

(A) An order by a securities agency or administrator of another state, Canadian province or territory, or the federal securities and exchange commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's license as a commodities or securities broker-dealer, sales representative, or investment adviser, or the substantial equivalent of those terms;

(B) A suspension or expulsion from membership in or association with a self-regulatory organization registered under the securities exchange act of 1934 or the commodity exchange act;

(C) A United States postal service fraud order;

(D) A cease and desist order entered after notice and opportunity for hearing by the administrator or the securities agency or administrator of any other state, Canadian province or territory, the securities and exchange commission, or the commodity futures trading commission;

(E) An order entered by the commodity futures trading commission denying, suspending, or revoking registration under the commodity exchange act;

(vii) Has engaged in any unethical or dishonest conduct or practice in the investment commodities or securities business;

(viii) Is insolvent, either in the sense that liabilities exceed assets, or in the sense that obligations cannot be met as they mature;

(ix) Is not qualified on the basis of such factors as training, experience, and knowledge of the investment commodities business;

(x) Has failed reasonably to supervise sales representatives or employees; or

(xi) Has failed to pay the proper filing fee within thirty days after being notified by the administrator of the deficiency. However, the administrator shall vacate any order under (xi) of this subsection when the deficiency has been corrected.

An order entered under this subsection shall be governed by subsection (2) of this section and sections 21 and 22 of this act.

The administrator shall not institute a suspension or revocation proceeding on the basis of a fact or transaction disclosed in the license application unless the proceeding is instituted within the next ninety days following issuance of the license.

(2) If the public interest or the protection of investors so requires, the administrator may, by order, summarily suspend a license or postpone the effective date of a license. Upon the entry of the order, the administrator shall promptly notify the applicant or licensed person, as well as the commodity broker-dealer with whom the person is or will be associated if the applicant or licensed person is a commodity sales representative, that an order has been entered and of the reasons therefore and that within twenty days after the receipt of a written request the matter will be set down for hearing. The provisions of sections 21 and 22 of this act apply with respect to all subsequent proceedings.

(3) If the administrator finds that any applicant or licensed person is no longer in existence or has ceased to do business as a commodity broker-dealer or commodity sales representative or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the administrator may, by order, cancel the application or license.

NEW SECTION. Sec. 37. The director may refer such evidence as may be available concerning violations of this chapter or of any rule or order under this chapter to the proper prosecuting attorney, who may in his or her discretion, with or without such a reference, institute the appropriate criminal proceedings under this chapter.

NEW SECTION. Sec. 38. Nothing in this chapter limits the power of the state to punish a person for conduct which constitutes a crime by statute or at common law.

NEW SECTION. Sec. 39. The administration of this chapter shall be under the director of the department of licensing.

NEW SECTION. Sec. 40. In addition to specific authority granted elsewhere in this chapter, the director may make, amend, and rescind rules, forms, and orders as are necessary to carry out this chapter. Such rules or

forms shall include but need not be limited to rules defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with this chapter. The director may classify commodities, commodity contracts, and commodity options, persons, and matters within the director's jurisdiction. No rule or form may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of the investors and consistent with the purposes intended by the policy and provisions of this chapter. The director may, by rule, establish a schedule of reasonable fees to carry out the purposes of this chapter, such fees to cover the estimated costs of enforcing this chapter.

NEW SECTION. Sec. 41. Nothing in this chapter shall impair, derogate from, or otherwise affect the authority or powers of the administrator under the securities act of Washington, chapter 21.20 RCW, or the application of any provision thereof to any person or transaction subject thereto.

NEW SECTION. Sec. 42. This chapter may be construed and implemented to effectuate its general purpose to protect investors, to prevent and prosecute illegal and fraudulent schemes involving commodities and to maximize coordination with federal and other states' law and the administration and enforcement thereof.

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 1 through 42 of this act shall constitute a new chapter in Title 21 RCW.

Sec. 45. Section 11, chapter 282, Laws of 1959 as last amended by section 7, chapter 68, Laws of 1979 ex. sess. and RCW 21.20.110 are each amended to read as follows:

The director may by order deny, suspend, or revoke registration of any broker-dealer, salesperson, investment adviser salesperson, or investment adviser if the director finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director:

(1) Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false, or misleading with respect to any material fact;

(2) Has wilfully violated or wilfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act, or any provision of chapter 21.— RCW (sections 1 through 42 of this 1986 act) or any rule or order thereunder;

(3) Has been convicted, within the past five years, of any misdemeanor involving a security, or a commodity contract or commodity option as defined in section 1 of this 1986 act, or any aspect of the securities or investment commodities business, or any felony involving moral turpitude;

(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities or investment commodities business;

(5) Is the subject of an order of the director denying, suspending, or revoking registration as a broker-dealer, salesperson, investment adviser, or investment adviser salesperson;

(6) Is the subject of an order entered within the past five years by the securities administrator of any other state or by the federal securities and exchange commission denying or revoking registration as a broker-dealer or salesperson, or a commodity broker-dealer or sales representative, or the substantial equivalent of those terms as defined in this chapter(~~;~~ or is the subject of an order of the federal securities and exchange commission suspending or expelling him or her from a national securities exchange or national securities association registered under the securities exchange act of 1934)) or by the commodity futures trading commission denying or revoking registration as a commodity merchant as defined in section 1 of this 1986 act, or is the subject of an order of suspension or expulsion from membership in or association with a self-regulatory organization registered under the securities exchange act of 1934 or the federal commodity exchange act, or is the subject of a United States post office fraud order; but (a) the director may not institute a revocation or suspension proceeding under this clause more than one year from the date of the order relied on, and (b) the director may not enter any order under this clause on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) Has engaged in dishonest or unethical practices in the securities or investment commodities business;

(8) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature; but the director may not enter an order against a broker-dealer or investment adviser under this clause without a finding of insolvency as to the broker-dealer or investment adviser; ((or))

(9) Has not complied with a condition imposed by the director under RCW 21.20.100, or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business; or

(10) Has failed to supervise reasonably his or her salespersons if he or she is a broker-dealer or his or her investment adviser salesperson if he or she is an investment adviser.

The director may by order summarily postpone or suspend registration pending final determination of any proceeding under this section.

NEW SECTION. Sec. 46. This act shall take effect on October 1, 1986.

Passed the Senate February 16, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 15

[Senate Bill No. 4512]

IDENTICARDS

AN ACT Relating to the expiration of identicards; and amending RCW 46.20.117.

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

Sec. 1. Section 4, chapter 155, Laws of 1969 ex. sess. as last amended by section 3, chapter 1, Laws of 1985 1st ex. sess. and RCW 46.20.117 are each amended to read as follows:

(1) The department shall issue "identicards," containing a picture, to individuals for a fee of four dollars. However, the fee shall be the actual cost of production to recipients of continuing public assistance grants under Title 74 RCW who are referred in writing to the department by the secretary of social and health services. The fee shall be deposited in the highway safety fund. To be eligible, each applicant shall produce evidence as required by the rules adopted by the director that positively proves identity. The "identocard" shall be distinctly designed so that it will not be confused with the official driver's license. The identocard shall ((be valid for five years)) expire on the fifth anniversary of the applicant's birthdate after issuance.

(2) The department may cancel an "identocard" upon a showing by its records or other evidence that the holder of such "identocard" has committed a violation relating to "identicards" defined in RCW 46.20.336.

Passed the Senate February 15, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 16

[House Bill No. 1599]

SNOWMOBILES—REGISTRATION—ADVISORY COMMITTEE

AN ACT Relating to snowmobiles; and amending RCW 46.10.030, 46.10.040, and 46.10.220.

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

Sec. 1. Section 3, chapter 29, Laws of 1971 ex. sess. as last amended by section 4, chapter 182, Laws of 1979 ex. sess. and RCW 46.10.030 are each amended to read as follows:

No registration shall be required under the provisions of this chapter for the following described snowmobiles:

(1) Snowmobiles owned and operated by the United States, another state, or a political subdivision thereof.

(2) A snowmobile owned by a resident of another state or Canadian province if that snowmobile is registered in accordance with the laws of the state or province in which its owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state or province for snowmobiles registered in this state: PROVIDED, That any snowmobile which is validly registered in another state or province and which is physically located in this state for a period of more than fifteen consecutive days shall be subject to registration under the provisions of this chapter.

Sec. 2. Section 4, chapter 29, Laws of 1971 ex. sess. as last amended by section 2, chapter 17, Laws of 1982 and RCW 46.10.040 are each amended to read as follows:

Application for registration shall be made to the department in such manner and upon such forms as the department shall prescribe, and shall state the name and address of each owner of the snowmobile to be registered, and shall be signed by at least one such owner, and shall be accompanied by ~~((a))~~ an annual registration fee ((of ten)) to be established by the commission, after consultation with the committee, at no more than fifteen dollars. However, the fee shall be ten dollars pending action by the commission to increase the fee. Any increase in the fee shall not exceed two dollars and fifty cents annually, up to the registration fee limit of fifteen dollars. Upon receipt of the application and the application fee, such snowmobile shall be registered and a registration number assigned, which shall be affixed to the snowmobile in a manner provided in RCW 46.10.070.

The registration provided in this section shall be valid for a period of one year. At the end of such period of registration, every owner of a snowmobile in this state shall renew his registration in such manner as the department shall prescribe, for an additional period of one year, upon payment of ~~((a renewal fee of ten dollars))~~ the annual registration fee as determined by the commission.

Any person acquiring a snowmobile already validly registered under the provisions of this chapter must, within ten days of the acquisition or purchase of such snowmobile, make application to the department for transfer of such registration, and such application shall be accompanied by a transfer fee of one dollar.

A snowmobile owned by a resident of another state or Canadian province where registration is not required by law may be issued a nonresident

registration permit valid for not more than sixty days. Application for such a permit shall state the name and address of each owner of the snowmobile to be registered and shall be signed by at least one such owner and shall be accompanied by a registration fee of five dollars. The registration permit shall be carried on the vehicle at all times during its operation in this state.

The registration fees provided in this section shall be in lieu of any personal property or excise tax heretofore imposed on snowmobiles by this state or any political subdivision thereof, and no city, county, or other municipality, and no state agency shall hereafter impose any other registration or license fee on any snowmobile in this state.

The department shall make available a pair of uniform decals consistent with the provisions of RCW 46.10.070 (~~as now or hereafter amended~~). In addition to the registration fee provided herein the department shall charge each applicant for registration the actual cost of said decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals.

Sec. 3. Section 2, chapter 182, Laws of 1979 ex. sess. as amended by section 1, chapter 139, Laws of 1983 and RCW 46.10.220 are each amended to read as follows:

(1) There is created in the Washington state parks and recreation commission a snowmobile advisory committee to advise the commission regarding the administration of this chapter.

(2) The purpose of the committee is to assist and advise the commission in the planned development of snowmobile facilities and programs.

(3) The committee shall consist of:

(a) Six interested snowmobilers, appointed by the commission; each such member shall be a resident of one of the six geographical areas throughout this state where snowmobile activity occurs, as defined by the commission;

(b) Three representatives of the nonsnowmobiling public, appointed by the commission; and

(c) One representative of the department of natural resources, one representative of the department of game, and one representative of the Washington state association of counties; each of whom shall be appointed by the director of such department or association.

(4) Terms of the members appointed under (3)(a) and (b) of this section shall commence on (~~July~~) October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term: PROVIDED, That the first such members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(5) Members of the committee appointed under (3)(a) and (b) of this section shall be reimbursed for travel expenses as provided in RCW 43.03-.050 and 43.03.060 as now or hereafter amended. Expenditures under this subsection shall be from the snowmobile account created by RCW 46.10.075.

(6) The committee may meet at times and places fixed by the committee. The committee shall meet not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. One of the meetings shall be coincident with a meeting of the commission at which the committee shall provide a report to the commission. The chairman of the committee shall be chosen under rules adopted by the committee from those members appointed under (3)(a) and (b) of this section.

(7) The Washington state parks and recreation commission shall serve as recording secretary to the committee. A representative of the department of licensing shall serve as an ex officio member of the committee and shall be notified of all meetings of the committee. The recording secretary and the ex officio member shall be nonvoting members.

(8) The committee shall adopt rules to govern its proceedings.

(9) The snowmobile advisory committee of the Washington state parks and recreation commission and its powers and duties shall terminate on June 30, 1989, and shall be subject to all of the processes provided in RCW 43.131.010 through 43.131.110 (~~as now existing or hereafter amended~~)).

Passed the House February 13, 1986.

Passed the Senate February 27, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 17

[Senate Bill No. 4617]

DRIVERS' INSTRUCTION PERMIT—EXAMINATION WAIVER

AN ACT Relating to drivers' instruction permits; and amending RCW 46.20.055.

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

Sec. 1. Section 10, chapter 260, Laws of 1981 as amended by section 1, chapter 234, Laws of 1985 and RCW 46.20.055 are each amended to read as follows:

(1) Any person who is at least fifteen and a half years of age may apply to the department for an instruction permit for the operation of any motor vehicle except a motorcycle. Any person who is at least sixteen years

of age may apply for an instruction permit for the operation of a motorcycle. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant a driver's or motorcyclist's instruction permit.

(a) A driver's instruction permit entitles the permittee while having the permit in immediate possession to drive a motor vehicle upon the public highways for a period of one year when accompanied by a licensed driver who has had at least five years of driving experience and is occupying a seat beside the driver. Except as provided in subsection (c) of this subsection, only one additional permit, valid for one year, may be issued.

(b) A motorcyclist's instruction permit entitles the permittee while having the permit in immediate possession to drive a motorcycle upon the public highways for a period of ninety days as provided in RCW 46.20.510(3). Except as provided in subsection (c) of this subsection, only one additional permit, valid for ninety days, may be issued.

(c) The department after investigation may issue a third driver's or motorcyclist's instruction permit when it finds that the permittee is diligently seeking to improve driving proficiency.

(2) The department may waive the examination, except as to eyesight and other potential physical restrictions, for any applicant who is enrolled in either a traffic safety education course as defined by RCW 46.81.010(2) or a course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1) at the time the application is being considered by the department. The department may require proof of registration in such a course as it deems necessary.

(3) The department upon receiving proper application may in its discretion issue a driver's instruction permit effective for a school semester or other restricted period to an applicant who is at least fifteen years of age and is enrolled in a traffic safety education program which includes practice driving and which is approved and accredited by the superintendent of public instruction. Such instruction permit shall entitle the permittee having the permit in immediate possession to drive a motor vehicle only when an approved instructor or other licensed driver with at least five years of driving experience, is occupying a seat beside the permittee.

~~((3))~~ (4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to drive a motor vehicle for a period not to exceed sixty days while the department is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. Such permit must be in the permittee's immediate possession while driving a motor vehicle,

and it shall be invalid when the permittee's license has been issued or for good cause has been refused.

Passed the Senate February 17, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 18

[Substitute Senate Bill No. 4618]

TRUCKS, TRACTORS, BUSES, STAGES—LICENSING AND REGISTRATION REVISIONS

AN ACT Relating to motor vehicle licensing and registration; amending RCW 46.04.650, 46.16.070, 46.16.079, 46.16.080, 46.16.083, 46.16.085, 46.16.088, 46.16.111, 46.16.135, 46.16.140, 46.16.170, 46.16.225, 46.16.260, 46.16.280, 46.16.290, 46.85.120, 46.85.130, 46.85.160, 46.87.010, 46.87.030, 46.87.090, and 46.88.010; amending section 24, chapter 380, Laws of 1985 (uncodified); amending section 25, chapter 380, Laws of 1985 (uncodified); reenacting and amending RCW 46.16.090; adding new sections to chapter 46.04 RCW; repealing RCW 46.16.130, 46.85.135, 46.85.147, 46.87.100, and 46.87.110; and providing an effective date.

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

Sec. 1. Section 46.04.650, chapter 12, Laws of 1961 as amended by section 8, chapter 62, Laws of 1975 and RCW 46.04.650 are each amended to read as follows:

"(~~Truck~~) Tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

NEW SECTION. Sec. 2. A new section is added to chapter 46.04 RCW to read as follows:

"Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

NEW SECTION. Sec. 3. A new section is added to chapter 46.04 RCW to read as follows:

"Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles but so constructed as to permit carrying a load in addition to part of the weight of the vehicle and load so drawn.

Sec. 4. Section 46.16.070, chapter 12, Laws of 1961 as last amended by section 15, chapter 380, Laws of 1985 and RCW 46.16.070 are each amended to read as follows:

In lieu of all other vehicle licensing fees and in addition to the excise tax prescribed in chapter 82.44 RCW and the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of six or more, based upon the declared combined gross vehicle weight or declared gross vehicle weight

thereof, the following ((combined)) licensing fees by such gross vehicle weight:

4,000 lbs.	\$ 27.75
6,000 lbs.	\$ 32.72
8,000 lbs.	\$ 40.30
10,000 lbs.	\$ 45.37
12,000 lbs.	\$ 52.62
14,000 lbs.	\$ 59.86
16,000 lbs.	\$ 67.31
18,000 lbs.	\$ 99.02
20,000 lbs.	\$ 109.94
22,000 lbs.	\$ 118.76
24,000 lbs.	\$ 127.95
26,000 lbs.	\$ 135.08
28,000 lbs.	\$ 158.66
30,000 lbs.	\$ 182.18
32,000 lbs.	\$ 218.78
34,000 lbs.	\$ 232.06
36,000 lbs.	\$ 251.39
38,000 lbs.	\$ 275.51
40,000 lbs.	\$ 314.99
42,000 lbs.	\$ 327.16
44,000 lbs.	\$ 334.02
46,000 lbs.	\$ 358.91
48,000 lbs.	\$ 374.19
50,000 lbs.	\$ 405.36
52,000 lbs.	\$ 426.45
54,000 lbs.	\$ 460.02
56,000 lbs.	\$ 485.21
58,000 lbs.	\$ 504.53
60,000 lbs.	\$ 537.29
62,000 lbs.	\$ 575.50
64,000 lbs.	\$ 588.75
66,000 lbs.	\$ 655.14
68,000 lbs.	\$ 682.99
70,000 lbs.	\$ 735.14
72,000 lbs.	\$ 785.36
74,000 lbs.	\$ 853.15
76,000 lbs.	\$ 922.05
78,000 lbs.	\$1,006.10
80,000 lbs.	\$1,085.95

The proceeds from such fees shall be distributed in accordance with RCW 46.68.035.

Every motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, 46.85, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless ~~((such an))~~ the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle.

Sec. 5. Section 1, chapter 18, Laws of 1963 as amended by section 16, chapter 25, Laws of 1975 and RCW 46.16.079 are each amended to read as follows:

The licensee of any fixed load motor vehicle equipped for lifting or towing any disabled, impounded, or abandoned vehicle or part thereof, may pay a capacity fee of twenty-five dollars in addition to all other fees required for the annual licensing of motor vehicles in lieu of the ~~((additional))~~ licensing fees provided in RCW 46.16.070.

Sec. 6. Section 46.16.080, chapter 12, Laws of 1961 as amended by section 17, chapter 25, Laws of 1975 and RCW 46.16.080 are each amended to read as follows:

In lieu of the ~~((additional))~~ licensing fee provided for motor vehicles in RCW 46.16.070 there shall be collected, in addition to all other fees required for annual licensing of vehicles:

(1) A capacity fee of five dollars on any motor truck, truck tractor, tractor, trailer, or semitrailer used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, wrecker, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such motor truck, truck tractor, tractor, trailer, or semitrailer~~((PROVIDED, That))~~;

(2) No ~~((additional))~~ fee ~~((shall))~~ may be collected under this section or under RCW ~~((46.16.070))~~ 46.16.085 on any travel trailer~~((PROVIDED FURTHER, That))~~ that will be charged fees and taxes under RCW 46.01.140, 46.16.060, 46.16.063 and chapter 82.50 RCW;

(3) For each vehicle used exclusively in the transportation of circus, carnival, and show equipment and in the transportation of supplies used in conjunction therewith, ~~((there))~~ a capacity fee of ten dollars shall be charged in addition to all other fees ~~((provided))~~ required for the annual licensing of these vehicles~~((, an annual capacity fee in the amount of ten dollars)).~~

Sec. 7. Section 46.16.083, chapter 12, Laws of 1961 as amended by section 4, chapter 170, Laws of 1969 ex. sess. and RCW 46.16.083 are each amended to read as follows:

A converter gear used to convert a semitrailer into a trailer or a two-axle tractor into a three-axle tractor or used in any other manner to increase the number of axles of a vehicle may, at the option of the owner, be

licensed as a separate vehicle or the converter gear and the vehicle with which it is used may be licensed as a combination, in which event the combination of the two will be considered as a single vehicle for the purposes of this chapter.

Where converter gears are licensed separately the maximum gross weight including the load must be included in the licensed gross weight of the power unit ~~((or in the licensed gross weight of the trailer where the converter gear is used to increase the number of axles of a trailer or semitrailer for which gross weight fees have been separately paid under the provisions of RCW 46.16.115)).~~

Sec. 8. Section 16, chapter 380, Laws of 1985 and RCW 46.16.085 are each amended to read as follows:

In lieu of all other licensing fees ~~((for the licensing of the following listed vehicles in the state of Washington and)),~~ an annual license fee of thirty-five dollars shall be collected in addition to the excise tax ~~((as))~~ prescribed in chapter 82.44 RCW ~~((;))~~ for: (1) Each trailer and semitrailer not ((licensed)) subject to the license fee under RCW 46.16.065 ((with an unladen weight exceeding two thousand pounds, and for)); (2) every pole trailer ((and)); (3) every converter gear or auxiliary axle((, there shall be paid and collected annually a license fee of thirty-five dollars)) not licensed as a combination under the provisions of RCW 46.16.083. The proceeds from ~~((such))~~ this fee shall be distributed in accordance with RCW 46.68-.035. This section does not pertain to travel trailers or personal use trailers that are not used for commercial purposes or owned by commercial enterprises.

Sec. 9. Section 17, chapter 380, Laws of 1985 and RCW 46.16.088 are each amended to read as follows:

Except as provided in RCW 46.16.290, the transfer of license ~~((number))~~ plates ~~((;))~~ issued pursuant to this chapter ~~((;))~~ between two or more vehicles is a traffic infraction subject to a fine not to exceed five hundred dollars. Any law enforcement agency that determines that a license ~~((number))~~ plate has been transferred between two or more vehicles shall confiscate the license ~~((number))~~ plates and return them to the department for nullification along with full details of the reasons for confiscation. Each vehicle identified in the transfer will be issued a new license ~~((number))~~ plate upon application by the owner or owners thereof and payment of the full fees and taxes.

Sec. 10. Section 46.16.090, chapter 12, Laws of 1961 as last amended by section 18, chapter 380, Laws of 1985 and by section 16, chapter 457, Laws of 1985 and RCW 46.16.090 are each reenacted and amended to read as follows:

Motor trucks, truck tractors, and tractors may be specially licensed based on the declared gross weight thereof for the various amounts set forth

in the schedule provided in RCW 46.16.070 less twenty-two dollars; divide the difference by two and add twenty-two dollars, when such vehicles are owned and operated by farmers, but only if the following condition or conditions exist:

(1) When such vehicles are to be used for the transportation of ~~((such))~~ the farmer's own farm, orchard, or dairy products, or ~~((such))~~ the farmer's own private sector cultured aquatic products as defined in RCW 15.85.020, from point of production to market or warehouse, and of supplies to be used on the farmer's farm ~~((PROVIDED, That))~~. Fish other than those that are such private sector cultured aquatic products and forestry products ~~((shall))~~ are not ~~((be))~~ considered as farm products; and/or

(2) When such vehicles are to be used for the infrequent or seasonal transportation by one ~~((such))~~ farmer for another farmer in the farmer's neighborhood of products of the farm, orchard, dairy, or aquatic farm owned by ~~((such))~~ the other farmer from point of production to market or warehouse, or supplies to be used on ~~((such))~~ the other farm, but only if ~~((such))~~ transportation for another farmer is for compensation other than money ~~((PROVIDED, HOWEVER, That))~~. Farmers shall be permitted an allowance of an additional eight thousand pounds, within the legal limits, on such vehicles, when used in the transportation of ~~((such))~~ the farmer's own farm machinery between the farmer's own farm or farms and for a distance of not more than thirty-five miles from the farmer's farm or farms.

The department shall prepare a special form of application to be used by farmers applying for licenses under this section, which form shall contain a statement to the effect that the vehicle concerned will be used subject to the limitations of this section. The department shall prepare special insignia which shall be placed upon all such vehicles to indicate that the vehicle is specially licensed, or may, in its discretion, substitute a special license plate for such vehicle for such designation.

Operation of such a specially licensed vehicle in transportation upon public highways in violation of the limitations of this section is a traffic infraction.

Sec. 11. Section 57, chapter 83, Laws of 1967 ex. sess. as last amended by section 1, chapter 231, Laws of 1971 ex. sess. and RCW 46.16.111 are each amended to read as follows:

~~((Unless the owner thereof elects to pay tonnage fees separately on his trailer or semitrailer pursuant to RCW 46.16.115))~~ The maximum gross weight in the case of any motor truck, tractor, or truck tractor shall be the scale weight of the motor truck, tractor, or truck tractor, plus the scale weight of any trailer, semitrailer, converter gear, or pole trailer to be towed thereby, to which shall be added the maximum load to be carried thereon or towed thereby as set by the licensee in ~~((his))~~ the application ~~((or otherwise: PROVIDED, That))~~. If the sum of the scale weight and maximum load of ~~((such))~~ the trailer is not greater than four thousand pounds, ~~((such))~~ that

sum shall not be computed as part of the maximum gross weight of any motor truck, tractor, or truck tractor (~~((PROVIDED, FURTHER, That))~~). Where the trailer is a utility trailer, travel trailer, horse trailer, or boat trailer, for the personal use of the owner of the truck, tractor, or truck tractor, and not for sale or commercial purposes, the gross weight of such trailer and its load shall not be computed as part of the maximum gross weight of any motor truck, tractor, or truck tractor ((PROVIDED, FURTHER, That)). The weight of any camper ((as defined in RCW 46.04.085 shall be)) is exempt from the determination of gross weight in the computation of any ((tonnage)) licensing fees required under RCW 46.16.070.

The maximum gross weight in the case of any bus, auto stage (~~((and))~~), or for hire vehicle, except taxicabs, with a seating capacity over six, shall be the scale weight of each bus, auto stage, and for hire vehicle plus ~~((an average load factor of fifty percent of))~~ the seating capacity, including the operator's seat, computed at one hundred and fifty pounds per seat.

Sec. 12. Section 46.16.135, chapter 12, Laws of 1961 as last amended by section 19, chapter 380, Laws of 1985 and RCW 46.16.135 are each amended to read as follows:

The ~~((combined))~~ annual vehicle licensing fees as provided in RCW 46.16.070 for any motor vehicle or combination of vehicles having a declared gross weight in excess of twelve thousand pounds may be paid for any full registration month or months at one-twelfth of the usual annual fee plus two dollars, this sum to be multiplied by the number of full months for which the fees are paid if for less than a full year. An additional fee of two dollars shall be ~~((charged by the director))~~ collected each time a license fee is paid. ~~((The director may adopt rules on the issuance and display of certificates or insignia.))~~

Operation of a vehicle licensed under the provisions of this section by any person upon the public highways after the expiration of the monthly license is a traffic infraction, and in addition the person shall be required to pay a license fee for the vehicle involved covering an entire registration year's operation, less the fees for any registration month or months of the registration year already paid. If, within five days, no license fee for a full registration year has been paid as required aforesaid, the Washington state patrol, county sheriff, or city police shall impound such vehicle in such manner as may be directed for such cases by the chief of the Washington state patrol, until such requirement is met.

Sec. 13. Section 46.16.140, chapter 12, Laws of 1961 as amended by section 47, chapter 136, Laws of 1979 ex. sess. and RCW 46.16.140 are each amended to read as follows:

It is a traffic infraction for any person to operate, or cause, permit, or suffer to be operated upon a public highway of this state any bus, auto stage, motor truck, ~~((trailer, pole trailer, or semitrailer))~~ truck tractor, or

tractor, with passengers, or with a maximum gross weight, in excess of that for which the motor vehicle or combination is licensed.

Any person who operates or causes to be operated upon a public highway of this state any motor truck, ~~((trailer, pole trailer, or semitrailer))~~ truck tractor, or tractor with a maximum gross weight in excess of the maximum gross weight for which the vehicle is licensed shall be deemed to have set a new maximum gross weight and shall, in addition to any penalties otherwise provided, be required to purchase a new license covering the new maximum gross weight, and any failure to secure such new license is a traffic infraction ~~((: PROVIDED, That this section shall not apply to for hire vehicles or auto stages operating principally within cities and towns: PROVIDED FURTHER, That upon surrender of the license originally purchased the director shall allow proper credit for the gross weight fee originally paid: PROVIDED FURTHER, That))~~. No such person may be permitted or required to purchase the new license ((upon)) for a gross weight or combined gross weight which would exceed the maximum gross weight or combined gross weight allowed by law. This section does not apply to for hire vehicles, buses, or auto stages operating principally within cities and towns.

Sec. 14. Section 46.16.170, chapter 12, Laws of 1961 and RCW 46.16.170 are each amended to read as follows:

Every motor truck, ~~((trailer and semitrailer))~~ truck tractor, and tractor shall have painted or stenciled upon the outside thereof, in a conspicuous place, in letters not less than two inches high, the maximum gross weight or combined gross weight for which the same is licensed, as provided in this chapter ~~((, and it shall be))~~. It is unlawful for the owner ((and) or operator of any ((such)) vehicle to display a maximum gross weight ((for which such vehicle is licensed)) or combined gross weight other than that shown on the current certificate of license registration of ((such)) the vehicle.

Sec. 15. Section 2, chapter 118, Laws of 1975 1st ex. sess. as amended by section 140, chapter 158, Laws of 1979 and RCW 46.16.225 are each amended to read as follows:

Notwithstanding any provision of law to the contrary, the ~~((director of licensing))~~ department may extend or diminish vehicle license registration periods for the purpose of staggering renewal periods. Such extension or diminishment of a vehicle license registration period shall be by rule ~~((and regulation))~~ of the department ~~((of licensing))~~ adopted in accordance with the provisions of chapter 34.04 RCW. ~~((Such))~~ The rules may provide for the omission of any classes or classifications of vehicle from the staggered renewal system and may provide for the gradual introduction of classes or classifications of vehicles into ~~((such a))~~ the system. ~~((Such))~~ The rules ~~((and regulations))~~ shall provide for the collection of proportionately increased or decreased vehicle license registration fees ~~((, including tonnage~~

fees, if applicable,) and of excise or property taxes required to be paid at the time of registration.

It is the intent of the legislature that there shall be neither a significant net gain nor loss of revenue to the state general fund or the motor vehicle fund as the result of implementing and maintaining a staggered vehicle registration system (~~((when compared with the revenue generated by the current registration system))~~).

Sec. 16. Section 46.16.260, chapter 12, Laws of 1961 as last amended by section 3, chapter 113, Laws of 1979 ex. sess. and RCW 46.16.260 are each amended to read as follows:

A certificate of license registration to be valid must have endorsed thereon the signature of the registered owner (if a firm or corporation, the signature of one of its officers or other duly authorized agent) and must be carried in the vehicle for which it is issued, at all times in the manner prescribed by the (~~((director))~~) department. It shall be unlawful for any person to operate or have in his possession a vehicle without carrying thereon such certificate of license registration (~~((and/or maximum gross weight license as herein provided))~~). Any person in charge of such vehicle shall, upon demand of any of the local authorities or of any police officer or of any representative of the department, permit an inspection of such certificate of license registration (~~((and/or maximum gross weight license))~~). This section does not apply to a vehicle for which annual renewal of its license (~~((number))~~) plates is not required and which is marked in accordance with the provisions of RCW 46.08.065.

Sec. 17. Section 46.16.280, chapter 12, Laws of 1961 as amended by section 20, chapter 32, Laws of 1967 and RCW 46.16.280 are each amended to read as follows:

In case of loss (~~((or))~~), destruction, sale, or transfer of any (~~((for hire))~~) motor vehicle (~~((, auto stage, motor truck, trailer, or semitrailer))~~) subject to the license fees under RCW 46.16.070, the registered owner thereof may (~~((retain the right to the load license or seat license to apply in licensing such vehicle as may be procured in replacement thereof and in any case of sale or transfer where load or seat license has not been assigned on the certificate of license registration it will be presumed that the same was intended to be retained by the previous registered owner thereof))~~), under the following conditions, obtain credit for the unused portion of the licensing fee paid for the vehicle:

(1) The licensing fee paid for the motor vehicle will be reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first month of the current registration year in which the motor vehicle was registered and the month the registrant surrenders the vehicle's registration certificate for the registration year to the department or an authorized agent of the department.

(2) If any such credit is less than fifteen dollars, no credit may be given.

(3) The credit may only be applied against the licensing fee liability due under RCW 46.16.070 for the replacement motor vehicle. The credit may only be used during the registration year from which it was obtained.

(4) In no event is such credit subject to refund.

Whenever ~~((during the calendar year))~~ any vehicle has been so altered as to change its license classification~~((;))~~ in such a manner that the vehicle license number plates are rendered improper ~~((therefor))~~, the current ~~((vehicle))~~ license ~~((number))~~ plates shall be surrendered to the ~~((director and))~~ department. New ~~((and proper vehicle))~~ license ~~((number))~~ plates shall be issued ~~((on))~~ upon application ~~((therefor))~~ accompanied by a one dollar fee ~~((therefor in the amount of one dollar))~~ in addition to any other or different charge by reason of licensing under a new classification. Such application shall be on forms prescribed by the ~~((director))~~ department and forwarded with the proper fee to ~~((his office))~~ the department or the office of ~~((his))~~ a duly authorized agent of the department.

Sec. 18. Section 46.16.290, chapter 12, Laws of 1961 as amended by section 2, chapter 27, Laws of 1983 and RCW 46.16.290 are each amended to read as follows:

In any case of a valid sale or transfer of the ownership of any vehicle, the right to the certificates properly transferable therewith, except as provided in RCW 46.16.280, and to the vehicle license ~~((number))~~ plates passes to the purchaser or transferee~~((, and))~~. It is unlawful for the holder of such certificates, except as provided in RCW 46.16.280, or vehicle license ~~((number))~~ plates to fail, neglect, or refuse to endorse the certificates and deliver the vehicle license ~~((number))~~ plates to the purchaser or transferee. If the sale or transfer is of a vehicle licensed by the state or any county, city, town, school district, or other political subdivision entitled to exemption as provided by law, or, if the vehicle is licensed with personalized plates, amateur radio operator plates, medal of honor plates, disabled person plates, disabled veteran plates, or prisoner of war plates, the vehicle license ~~((number))~~ plates therefor shall be retained and may be displayed upon a vehicle obtained in replacement of the vehicle so sold or transferred.

Sec. 19. Section 12, chapter 106, Laws of 1963 as last amended by section 4, chapter 173, Laws of 1985 and RCW 46.85.120 are each amended to read as follows:

(1) Any owner engaged in interstate operation of one or more fleets may, in lieu of registration of vehicles under chapter 46.16 RCW, register and license each fleet for operation in this state under chapter 46.85 RCW by filing a prorate application for each fleet with the department containing the following information and such other information pertinent to vehicle registration as the department may require:

(a) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the vehicles in such fleet during said year.

(b) In-state miles. This shall be the total number of miles operated in this state during the preceding year by the vehicles in such fleet during said year.

(c) A description and identification of each vehicle of such fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested.

(2) The application for each fleet shall, at the time and in the manner required by the department, be supported by fee payment computed as follows:

(a) Divide the sum of the in-state miles by total fleet miles.

(b) Determine the total fees and taxes required under subsection (2)(c) of this section to register each and every vehicle in the fleet for which registration is requested, based on the regular annual fees or applicable fees for the unexpired portion of the registration year.

(c) Multiply the sum of the proratable fees and taxes required by RCW ~~((46.16.060;))~~ 46.16.070, 46.16.085, 82.38.075, and 82.44.020 by the fraction obtained under subsection (2)(a) of this section ~~((and then add the other applicable fees required by RCW 46.01.140 and chapters 46.16 and 46.85 RCW that are nonproratable)).~~

(3) The applicant for proportional registration of any fleet, the nonmotor vehicles of which are operated in jurisdictions in addition to those in which the applicant's fleet motor vehicles are operated, may state such nonmotor vehicles in a separate application and compute and pay the fees therefor in accordance with such separate application, as to which "total miles" shall be the total miles operated in all jurisdictions during the preceding year.

~~((4) In no event shall the proportional fee payment be less than a minimum of five dollars per motor truck, truck tractor, or auto stage, and three dollars per vehicle of any other type.))~~

Sec. 20. Section 13, chapter 106, Laws of 1963 as amended by section 4, chapter 222, Laws of 1981 and RCW 46.85.130 are each amended to read as follows:

(1) The department, upon acceptance and approval of a prorate application, shall register the vehicles so described and identified and may issue a license plate or plates, or a distinctive sticker, or other suitable identification device, for each vehicle described in the application upon payment of the appropriate fees and taxes for such application ~~((and for the stickers or devices issued. A fee of two dollars shall be paid for each license plate, sticker, or device issued for each proportionally registered vehicle)).~~ A registration cab card shall be issued for each proportionally registered vehicle. Such

registration card shall, in addition to the information required by RCW 46.12.050, bear upon its face the number of the license plate (~~(or other device)~~) issued to such proportionally registered vehicle and shall be carried in such vehicles at all times or, in the case of a combination, it may be carried in the vehicle supplying the motive power.

(2) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for interstate or intrastate movement or operation, no such vehicle shall be operated in interstate or intrastate commerce in this state unless the owner thereof has been granted interstate operating authority by the interstate commerce commission in the case of interstate operations or intrastate operating authority by the Washington utility and transportation commission in the case of intrastate operations and unless said vehicle is being operated in conformity with such authority.

(3) The department may issue temporary (~~(proration)~~) authorization permits (TAPs) to qualifying operators for the operation of vehicles pending issuance of license identification. A fee of one dollar plus a one dollar filing fee shall be collected for each permit issued. The permit fee shall be deposited in the motor vehicle fund, and the filing fee shall be distributed pursuant to RCW 46.01.140. The department shall have the authority to adopt rules (~~(and regulations)~~) for use and issuance of the permits.

(4) The department may refuse to issue any license or permit authorized by subsections (1) or (3) of this section to any person: (a) Who formerly held any type of license or permit issued by the department pursuant to chapter 46.16, 46.85, 82.36, 82.37, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (b) who is a subterfuge for the real party in interest whose license or permit issued by the department pursuant to chapter 46.16, 46.85, 82.36, 82.37, or 82.38 RCW and has been revoked for cause, which cause has not been removed; or (c) who, as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, has had a license or permit issued by the department pursuant to chapter 46.16, 46.85, 82.36, 82.37, or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (d) who has an unsatisfied debt to the state assessed under either chapter 46.16, 46.85, 82.36, 82.37, 82.38, or 82.44 RCW.

(5) The department may revoke the license or permit authorized by subsections (1) or (3) of this section issued to any person for any of the grounds constituting cause for denial of licenses or permits set forth in subsection (4) of this section.

(6) Before such refusal or revocation under subsections (4) or (5) of this section, the department shall grant the applicant a hearing and shall grant him at least ten days written notice of the time and place thereof.

Sec. 21. Section 16, chapter 106, Laws of 1963 as amended by section 2, chapter 51, Laws of 1971 and RCW 46.85.160 are each amended to read as follows:

If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under the provisions of this chapter, the owner of such fleet shall ((so)) notify the department on appropriate forms to be prescribed by the department. The department may require the owner to surrender proportional registration cab cards and ((such)) other identification devices which have been issued ((with respect)) to such vehicle. If a motor vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the registrant, the unused portion of the ((gross weight)) licensing fee paid under RCW 46.16.070 with respect to such vehicle(~~(, which shall be a sum equal to the amount of gross weight fee paid with respect to such vehicle when it was first proportionally registered in such registration year,))~~ reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first day of the month of the current year in which the vehicle was registered and the date the notice of withdrawal is received by the department, shall be credited to the proportional registration account of such owner. ((Such)) Credit shall be applied against the ((gross weight)) licensing fee liability for subsequent additions of motor vehicles to be prorated during such registration year or for additional ((gross weight)) licensing fees due under RCW 46.16.070 or determined to be due upon audit under RCW 46.85.190. If any such credit is less than fifteen dollars, no credit shall be made or entered. In no event shall ((such)) any amount be credited against fees other than those for such registration year nor shall any ((such)) amount be subject to refund.

Sec. 22. Section 1, chapter 380, Laws of 1985 and RCW 46.87.010 are each amended to read as follows:

This chapter applies to proportional registration and reciprocity granted under provisions of the International Registration Plan (IRP) and will be implemented beginning with the first registration year following the year in which Washington becomes a member of the IRP. Provisions and terms of the IRP shall prevail unless given a different meaning in this chapter or in rules adopted under the authority of this chapter. The director may adopt and enforce rules deemed necessary to implement and administer this chapter. Beginning with the first registration year in which the state of Washington begins registering fleets under provisions of the IRP, registrants having a fleet of apportioned vehicles operating in two or more member jurisdictions may elect to proportionally register the vehicles of the fleet under the provisions of this chapter in lieu of full, proportional, or temporary registration as provided for in chapter 46.16, 46.85, or 46.88 RCW.

Sec. 23. Section 3, chapter 380, Laws of 1985 and RCW 46.87.030 are each amended to read as follows:

(1) When application to register an apportioned vehicle is made after March 31st of a registration year, the apportionable fees may be reduced by one-twelfth for each full registration month that has elapsed at the time a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as an application for registration is received in the department. The filing of any application with the department incurs liability for the fees and taxes applicable to the vehicles contained in the application. If the vehicle is being added to a currently registered fleet, the mileage percentage previously established for the fleet shall be used in the computation of the fees.

(2) A motor vehicle permanently withdrawn from service that was previously registered as part of a proportionally registered fleet may be deleted from the fleet by the registrant by submitting a supplemental application to the department. Upon receipt of the application and surrender of the original cab card and license plates of the vehicle, the unused portion of the fees paid for each full month of the registration year remaining shall be applied against liability of the registrant for license fees due ~~((m))~~ for motor vehicles added to the fleet during the remainder of the same registration year. If any such credit is less than fifteen dollars, no credit will be given. In no event is the amount subject to refund.

Sec. 24. Section 9, chapter 380, Laws of 1985 and RCW 46.87.090 are each amended to read as follows:

To replace a vehicle license plate(s) due to the loss, defacement, or destruction of the plate(s) issued for an apportioned vehicle, the owner shall apply for new apportioned vehicle license plates on a form furnished by the department. The application, together with the cab card of the vehicle, shall be filed with the department. A fee of ten dollars for vehicles required to display two apportioned vehicle license plates or five dollars for vehicles required to display one apportioned vehicle license plate shall accompany the application. The department shall issue a new apportioned vehicle license plate(s) and cab card upon acceptance of the completed application form and the required replacement fee.

Sec. 25. Section 32, chapter 281, Laws of 1969 ex. sess. as amended by section 202, chapter 158, Laws of 1979 and RCW 46.88.010 are each amended to read as follows:

The owner of any commercial vehicle or vehicles lawfully registered in another state and who wishes to use such vehicle or vehicles in this state in intrastate operations for periods less than a year may obtain permits for such operations upon application to the department ~~((of licensing or a county auditor))~~. Such permits may be issued for thirty, sixty, or ninety day periods. The cost of each such permit shall ~~((include the fees provided for in RCW sections 46.01.140, 46.16.061, 46.16.060 and))~~ be one-twelfth of the fees provided for in RCW 46.16.070 or 46.16.085, as appropriate, and 82.44.020 for each thirty days' operations provided for in the permit.

Sec. 26. Section 24, chapter 380, Laws of 1985 (uncodified) is amended to read as follows:

The following acts or parts of acts are each repealed:

(1) Section 15, chapter 170, Laws of 1969 ex. sess., section 4, chapter 150, Laws of 1973 1st ex. sess., section 2, chapter 64, Laws of 1975-'76 2nd ex. sess. and RCW 46.16.115 ((are each repealed));

(2) Section 46.16.130, chapter 12, Laws of 1961, section 5, chapter 118, Laws of 1975 1st ex. sess., section 1, chapter 54, Laws of 1975-'76 2nd ex. sess. and RCW 46.16.130;

(3) Section 5, chapter 51, Laws of 1971, section 5, chapter 222, Laws of 1981 and RCW 46.85.135;

(4) Section 7, chapter 51, Laws of 1971 and RCW 46.85.147;

(5) Section 10, chapter 380, Laws of 1985 and RCW 46.87.100; and

(6) Section 11, chapter 380, Laws of 1985 and RCW 46.87.110.

Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder.

Sec. 27. Section 25, chapter 380, Laws of 1985 (uncodified) is amended to read as follows:

Chapter 380, Laws of 1985 and this 1986 act shall take effect on January 1st ((of the year following the year in which the state of Washington becomes a member of the International Registration Plan)) 1987. The new fees required by RCW 46.16.070, 46.16.080, 46.16.090, and 46.16.085 shall be assessed beginning with the renewal of vehicle registrations with a December 1986 expiration date or later and all initial registrations that become effective on or after January 1, 1987. The director of the department of licensing may immediately take such steps as are necessary to insure that this act is implemented on its effective date.

Passed the Senate February 17, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 19

[Substitute Senate Bill No. 4684]
RESTITUTION BY INMATES

AN ACT Relating to inmate restitution; and amending RCW 72.09.050.

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

Sec. 1. Section 5, chapter 136, Laws of 1981 and RCW 72.09.050 are each amended to read as follows:

The secretary shall manage the department of corrections and shall be responsible for the administration of adult correctional programs, including but not limited to the operation of all state correctional institutions or facilities used for the confinement of convicted felons. In addition, the secretary shall have broad powers to enter into agreements with any federal agency, or any other state, or any Washington state agency or local government providing for the operation of any correctional facility or program for persons convicted of felonies or misdemeanors or for juvenile offenders. The agreements may provide for joint operation or operation by the department of corrections, alone, or by any of the other governmental entities, alone. The secretary may employ persons to aid in performing the functions and duties of the department. The secretary may delegate any of his functions or duties to department employees. The secretary is authorized to promulgate standards for the department of corrections within appropriation levels authorized by the legislature.

Pursuant to the authority granted in chapter 34.04 RCW, the secretary shall adopt rules providing for inmate restitution when restitution is determined appropriate as a result of a disciplinary action.

Passed the Senate February 7, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 20

[Senate Bill No. 4721]

INDUSTRIAL SAFETY AND HEALTH ACT—VIOLATIONS, CITATIONS, APPEALS, PENALTIES

AN ACT Relating to the Washington industrial safety and health act; amending RCW 49.17.140, 49.17.180, and 49.17.190; and prescribing penalties.

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

Sec. 1. Section 14, chapter 80, Laws of 1973 and RCW 49.17.140 are each amended to read as follows:

(1) If after an inspection or investigation the director or his authorized representative issues a citation under the authority of RCW 49.17.120 or 49.17.130, the department, within a reasonable time after the termination of such inspection or investigation, shall notify the employer by certified mail of the penalty to be assessed under the authority of RCW 49.17.180 and shall state that the employer has fifteen working days within which to notify the director that he wishes to appeal the citation or assessment of penalty. If, within fifteen working days from the communication of the notice issued by the director the employer fails to notify the director that he intends to appeal the citation or assessment penalty, and no notice is filed by any employee or representative of employees under subsection (3) of this section

within such time, the citation and the assessment shall be deemed a final order of the department and not subject to review by any court or agency.

(2) If the director has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted in the citation for its correction, which period shall not begin to run until the entry of a final order in the case of any appeal proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, the director shall notify the employer by certified mail of such failure to correct the violation and of the penalty to be assessed under RCW 49.17.180 by reason of such failure, and shall state that the employer has fifteen working days from the communication of such notification and assessment of penalty to notify the director that he wishes to appeal the director's notification of the assessment of penalty. If, within fifteen working days from the receipt of notification issued by the director the employer fails to notify the director that he intends to appeal the notification of assessment of penalty, the notification and assessment of penalty shall be deemed a final order of the department and not subject to review by any court or agency.

(3) If any employer notifies the director that he intends to appeal the citation issued under either RCW 49.17.120 or 49.17.130 or notification of the assessment of a penalty issued under subsections (1) or (2) of this section, or if, within fifteen working days from the issuance of a citation under either RCW 49.17.120 or 49.17.130 any employee or representative of employees files a notice with the director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the director may reassume jurisdiction over the entire matter, or any portion thereof upon which notice of intention to appeal has been filed with the director pursuant to this subsection. If the director reassumes jurisdiction of all or any portion of the matter upon which notice of appeal has been filed with the director, any redetermination shall be completed and corrective notices of assessment of penalty, citations, or revised periods of abatement completed within a period of (~~fifteen~~) thirty working days, which redetermination shall then become final subject to direct appeal to the board of industrial insurance appeals within fifteen working days of such redetermination with service of notice of appeal upon the director. In the event that the director does not reassume jurisdiction as provided in this subsection, he shall promptly notify the state board of industrial insurance appeals of all notifications of intention to appeal any such citations, any such notices of assessment of penalty and any employee or representative of employees notice of intention to appeal the period of time fixed for abatement of a violation and in addition certify a full copy of the record in such appeal matters to the board. The director shall adopt rules of procedure for the reassumption of jurisdiction under this subsection affording employers, employees, and employee representatives notice of the reassumption of jurisdiction by

the director, and an opportunity to object or support the reassumption of jurisdiction, either in writing or orally at an informal conference to be held prior to the expiration of the (~~fifteen~~) thirty-day period. A notice of appeal filed under this section shall stay the effectiveness of any citation or notice of the assessment of a penalty pending review by the board of industrial insurance appeals, but such appeal shall not stay the effectiveness of any order of immediate restraint issued by the director under the authority of RCW 49.17.130. The board of industrial insurance appeals shall afford an opportunity for a hearing in the case of each such appellant and the department shall be represented in such hearing by the attorney general and the board shall in addition provide affected employees or authorized representatives of affected employees an opportunity to participate as parties to hearings under this subsection. The board shall thereafter make disposition of the issues in accordance with procedures relative to contested cases appealed to the state board of industrial insurance appeals.

Upon application by an employer showing that a good faith effort to comply with the abatement requirements of a citation has been made and that the abatement has not been completed because of factors beyond his control, the director after affording an opportunity for a hearing shall issue an order affirming or modifying the abatement requirements in such citation.

Sec. 2. Section 18, chapter 80, Laws of 1973 and RCW 49.17.180 are each amended to read as follows:

(1) Any employer who wilfully or repeatedly violates the requirements of RCW 49.17.060, (~~(or)~~) of any safety (~~(and)~~) or health standard promulgated under the authority of this chapter, of any existing rule or regulation governing the conditions of employment promulgated by the department, or of any order issued granting a variance under RCW 49.17.080 or 49.17.090 may be assessed a civil penalty not to exceed (~~(ten)~~) fifty thousand dollars for each violation.

(2) Any employer who has received a citation for a serious violation of the requirements of RCW 49.17.060, of any safety or health standard promulgated under the authority of this chapter, of any existing rule or regulation governing the conditions of employment promulgated by the department, or of any order issued granting a variance under RCW 49.17.080 or 49.17.090 as determined in accordance with subsection (6) of this section, shall be assessed a civil penalty not to exceed (~~(one)~~) five thousand dollars for each such violation.

(3) Any employer who has received a citation for a violation of the requirements of RCW 49.17.060, of any safety (~~(and)~~) or health standard promulgated under this chapter, (~~(or)~~) of any existing rule or regulation governing the conditions of employment promulgated by the department, or of any order issued granting a variance under RCW 49.17.080 or 49.17.090, where such violation is specifically determined not to be of a serious nature

as provided in subsection (6) of this section, may be assessed a civil penalty not to exceed ~~((one))~~ three thousand dollars for each such violation, unless such violation is determined to be de minimis.

(4) Any employer who fails to correct a violation for which a citation has been issued under RCW 49.17.120 or 49.17.130 within the period permitted for its correction, which period shall not begin to run until the date of the final order of the board of industrial insurance appeals in the case of any review proceedings under this chapter initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than ~~((one))~~ five thousand dollars for each day during which such failure or violation continues.

(5) Any employer who violates any of the posting requirements of this chapter, or any of the posting requirements of rules promulgated by the department pursuant to this chapter related to employee or employee representative's rights to notice, including but not limited to those employee rights to notice set forth in RCW 49.17.080, 49.17.090, 49.17.120, 49.17.130, 49.17.220(1) and 49.17.240(2), shall be assessed a penalty ~~((of))~~ not to exceed ~~((one))~~ three thousand dollars for each such violation. Any employer who violates any of the posting requirements for the posting of informational, educational, or training materials under the authority of RCW 49.17.050(7), may be assessed a penalty ~~((of))~~ not to exceed one thousand five hundred dollars for each such violation.

(6) For the purposes of this section, a serious violation shall be deemed to exist in a work place if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in such work place, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(7) The director, or his authorized representatives, shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the number of affected employees of the employer being charged, the gravity of the violation, the size of the employer's business, the good faith of the employer, and the history of previous violations.

(8) Civil penalties imposed under this chapter shall be paid to the director for deposit in the supplemental pension fund established by RCW 51.44.033. Civil penalties may be recovered in a civil action in the name of the department brought in the superior court of the county where the violation is alleged to have occurred, or the department may utilize the procedures for collection of civil penalties as set forth in RCW 51.48.120 through 51.48.150.

Sec. 3. Section 19, chapter 80, Laws of 1973 and RCW 49.17.190 are each amended to read as follows:

(1) Any person who gives advance notice of any inspection to be conducted under the authority of this chapter, without the consent of the director or his authorized representative, shall, upon conviction be guilty of a gross misdemeanor and be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or by both.

(2) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction be guilty of a gross misdemeanor and be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months or by both.

(3) Any employer who wilfully and knowingly violates the requirements of RCW 49.17.060, any safety (~~and~~) or health standard promulgated under this chapter, any existing rule or regulation governing the safety (~~and~~) or health conditions of employment and adopted by the director, or any order issued granting a variance under RCW 49.17.080 or 49.17.090 and that violation caused death to any employee shall, upon conviction be guilty of a gross misdemeanor and be punished by a fine of not more than (~~ten~~) one hundred thousand dollars or by imprisonment for not more than six months or by both; except, that if the conviction is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than (~~twenty~~) two hundred thousand dollars or by imprisonment for not more than one year, or by both.

(4) Any employer who has been issued an order immediately restraining a condition, practice, method, process, or means in the work place, pursuant to RCW 49.17.130 or 49.17.170, and who nevertheless continues such condition, practice, method, process, or means, or who continues to use a machine or equipment or part thereof to which a notice prohibiting such use has been attached, shall be guilty of a gross misdemeanor, and upon conviction shall be punished by a fine of not more than (~~one~~) ten thousand dollars or by imprisonment ~~for~~ not more than six months, or by both.

(5) Any employer who shall knowingly remove, displace, damage, or destroy, or cause to be removed, displaced, damaged, or destroyed any safety device or safeguard required to be present and maintained by any safety or health standard, rule, or order promulgated pursuant to this chapter, or pursuant to the authority vested in the director under RCW 43.22-.050 shall, upon conviction, be guilty of a misdemeanor and be punished by a fine of not more than (~~two hundred fifty~~) one thousand dollars or by imprisonment for not more than ninety days, or by both.

(6) Whenever the director has reasonable cause to believe that any provision of this section defining a crime has been violated by an employer, the director shall cause a record of such alleged violation to be prepared, a copy of which shall be referred to the prosecuting attorney of the county wherein such alleged violation occurred, and the prosecuting attorney of

such county shall in writing advise the director of the disposition he shall make of the alleged violation.

Passed the Senate February 13, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 21

[Senate Bill No. 4644]

TIPS AS WAGES—UNEMPLOYMENT COMPENSATION

AN ACT Relating to the treatment of tips as wages for unemployment insurance purposes; amending RCW 50.04.320; and creating a new section.

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

Sec. 1. Section 33, chapter 35, Laws of 1945 as last amended by section 2, chapter 134, Laws of 1984 and RCW 50.04.320 are each amended to read as follows:

For the purpose of payment of contributions, "wages" means the remuneration paid by one employer during any calendar year to an individual in its employment under this title or the unemployment compensation law of any other state in the amount specified in RCW 50.24.010. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the operating assets of another employer (hereinafter referred to as a predecessor employer) or assets used in a separate unit of a trade or business of a predecessor employer, and immediately after the acquisition employs in the individual's trade or business an individual who immediately before the acquisition was employed in the trade or business of the predecessor employer, then, for the purposes of determining the amount of remuneration paid by the successor employer to the individual during the calendar year which is subject to contributions, any remuneration paid to the individual by the predecessor employer during that calendar year and before the acquisition shall be considered as having been paid by the successor employer.

For the purpose of payment of benefits, "wages" means the remuneration paid by one or more employers to an individual for employment under this title during his base year: PROVIDED, That at the request of a claimant, wages may be calculated on the basis of remuneration payable. The department shall notify each claimant that wages are calculated on the basis of remuneration paid, but at the claimant's request a redetermination may be performed and based on remuneration payable.

For the purpose of payment of benefits and payment of contributions, the term "wages" includes tips which are received after January 1, 1987,

while performing services which constitute employment, and which are reported to the employer for federal income tax purposes.

"Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash and the reasonable value of gratuities shall be estimated and determined in accordance with rules prescribed by the commissioner. Remuneration does not include payments to members of a reserve component of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, shall be considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

The provisions of this section pertaining to the assignment of previously accrued compensation shall not apply to individuals subject to RCW 50.44.050.

NEW SECTION. Sec. 2. 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. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 12, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 8, 1986.

Filed in Office of Secretary of State March 8, 1986.

CHAPTER 22

[Senate Bill No. 4443]

ABSENTEE VOTERS—ONGOING STATUS—BLIND PERSONS

AN ACT Relating to absentee voters; and amending RCW 29.36.013.

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

Sec. 1. Section 2, chapter 273, Laws of 1985 and RCW 29.36.013 are each amended to read as follows:

Any disabled voter or any voter over the age of sixty-five may apply, in writing, for status as an ongoing absentee voter. Each such voter shall be granted that status by his or her county auditor and shall automatically receive an absentee ballot for each ensuing election for which he or she is entitled to vote and need not submit a separate application for each election. Ballots received from ongoing absentee voters shall be validated, processed, and tabulated in the same manner as other absentee ballots.

Status as an ongoing absentee voter shall be terminated upon any of the following events:

- (1) The written request of the voter;
- (2) The death or disqualification of the voter;
- (3) The cancellation of the voter's registration record;
- (4) The return of an ongoing absentee ballot as undeliverable; or
- (5) January 1st of each odd-numbered year.

A disabled voter is defined as a voter qualifying for special parking privileges under RCW 46.16.381(~~((+))~~) or a blind person as defined in RCW 74.18.020.

Passed the Senate January 28, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 23

[Substitute Senate Bill No. 4696]

FERRY SYSTEM EXPENDITURES

AN ACT Relating to state ferry system revenues; amending RCW 47.60.150; and providing an effective date.

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

Sec. 1. Section 47.60.150, chapter 13, Laws of 1961 as last amended by section 135, chapter 3, Laws of 1983 and RCW 47.60.150 are each amended to read as follows:

Subject to the provisions of RCW 47.60.326, the schedule of charges for the services and facilities of the system shall be fixed and revised from

time to time by the commission so that the tolls and revenues collected together with any moneys in the Puget Sound ferry operations account appropriated for maintenance and operation, and all moneys in the Puget Sound reserve account available for debt service will yield annual revenue and income sufficient, after allowance for all operating, maintenance, and repair expenses to pay the interest and principal and sinking fund charges for all outstanding revenue bonds, and to create and maintain a fund for ordinary renewals and replacements: PROVIDED, That if provision is made by any resolution for the issuance of revenue bonds for the creation and maintenance of a special fund for rehabilitating, rebuilding, enlarging, or improving all or any part of the ferry system then such schedule of tolls and rates of charges shall be fixed and revised so that the revenue and income will also be sufficient to comply with such provision.

All income and revenues as collected shall be paid to the state treasurer for the account of the department as a separate trust fund and to be segregated and disbursed upon order of the department: PROVIDED, That the fund so segregated and set apart for the payment of the revenue bonds may be remitted to and held by a designated trustee in such manner and with such collateral as may be provided in the resolution authorizing the issuance of said bonds. No expenditure may be made from the revenue fund established under this section and the bond resolution without an appropriation by law.

NEW SECTION. Sec. 2. This act shall take effect on July 1, 1987. The secretary of transportation may immediately take such steps as may be necessary to insure that this act is implemented on its effective date.

Passed the Senate February 17, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 24

[Senate Bill No. 4747]

MODEL TRAFFIC ORDINANCE

AN ACT Relating to the Model Traffic Ordinance; amending RCW 46.90.300 and 46.90.406; and declaring an emergency.

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

Sec. 1. Section 1, chapter 19, Laws of 1985 and RCW 46.90.300 are each amended to read as follows:

The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW

46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.260, 46.12.300, 46.12-.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, 46.12.380, 46.16.010, 46-.16.025, 46.16.028, 46.16.030, 46.16.088, 46.16.135, 46.16.140, 46.16.145, 46.16.170, 46.16.180, 46.16.240, 46.16.260, 46.16.290, 46.16.381, 46.16-.390, 46.16.500, 46.16.505, 46.20.011, 46.20.021, 46.20.022, 46.20.025, 46-.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.342, 46.20.343, 46.20.344, 46.20.391, (~~46.20.393~~;) 46-.20.394, 46.20.410, 46.20.416, 46.20.420, 46.20.430, 46.20.435, 46.20.440, 46.20.500, 46.20.510, 46.20.550, 46.20.599, 46.20.600, 46.29.605, 46.32-.060, 46.32.070, 46.37.010, 46.37.020, 46.37.030, 46.37.040, 46.37.050, 46-.37.060, 46.37.070, 46.37.080, 46.37.090, 46.37.100, 46.37.110, 46.37.120, 46.37.130, 46.37.140, 46.37.150, 46.37.160, 46.37.170, 46.37.180, 46.37-.184, 46.37.185, 46.37.186, 46.37.187, 46.37.188, 46.37.190, 46.37.196, 46-.37.200, 46.37.210, 46.37.215, 46.37.220, 46.37.230, 46.37.240, 46.37.260, 46.37.270, 46.37.280, 46.37.290, 46.37.300, 46.37.310, 46.37.340, 46.37-.351, 46.37.360, 46.37.365, 46.37.369, 46.37.375, 46.37.380, 46.37.390, 46-.37.400, 46.37.410, 46.37.420, 46.37.425, 46.37.430, 46.37.440, 46.37.450, 46.37.460, 46.37.465, 46.37.467, 46.37.480, 46.37.490, 46.37.500, 46.37-.510, 46.37.513, 46.37.517, 46.37.520, 46.37.522, 46.37.523, 46.37.524, 46-.37.525, 46.37.527, 46.37.528, 46.37.529, 46.37.530, 46.37.535, 46.37.537, 46.37.539, 46.37.540, 46.37.550, 46.37.560, 46.37.570, 46.37.590, 46.37-.600, 46.37.610, 46.44.010, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46-.44.037, 46.44.041, 46.44.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44-.100, 46.44.120, 46.44.130, 46.44.140, 46.44.170, 46.44.173, 46.44.175, 46-.44.180, 46.48.170, 46.52.010, 46.52.020, 46.52.030, 46.52.040, 46.52.070, 46.52.080, 46.52.088, 46.52.090, 46.52.100, (~~46.52.104, 46.52.106, 46.52-.108, 46.52.111, 46.52.112, 46.52.113, 46.52.114, 46.52.116, 46.52.117, 46-.52.118, 46.52.119, 46.52.1192, 46.52.1194, 46.52.1195, 46.52.1196, 46.52.1198, 46.52.145, 46.52.150, 46.52.160~~;) 46.52.170, 46.52.180, 46.52-.190, 46.52.200, (~~46.52.210~~;) 46.65.090, 46.79.120, and 46.80.010.

Sec. 2. Section 64, chapter 54, Laws of 1975 1st ex. sess. as last amended by section 3, chapter 65, Laws of 1980 and RCW 46.90.406 are each amended to read as follows:

The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.55.010, 46.55.020, 46.55.030, 46.55.040, 46.55.050, 46.55.060, 46.55-.070, 46.55.080, 46.55.090, 46.55.100, 46.55.110, 46.55.120, 46.55.130, 46-.55.140, 46.55.150, 46.55.160, 46.55.170, 46.55.230, 46.55.240, 46.61.015, 46.61.020, 46.61.021, 46.61.022, 46.61.025, 46.61.030, 46.61.035, 46.61-.050, 46.61.055, 46.61.060, 46.61.065, 46.61.070, 46.61.072, 46.61.075, and 46.61.080.

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

Passed the Senate February 11, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 25

[Senate Bill No. 4593]

PUBLIC DEPOSITARIES—MINIMUM STANDARDS

AN ACT Relating to deposit of public funds; and amending RCW 39.58.135 and 39.58.040.

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

Sec. 1. Section 19, chapter 177, Laws of 1984 and RCW 39.58.135 are each amended to read as follows:

Notwithstanding RCW 39.58.130, (1) aggregate deposits received by a qualified public depository from all public treasurers shall not exceed at any time (~~three hundred~~) one hundred fifty percent of the value of the depository's net worth as of the close of business of the most recent calendar quarter, nor (2) shall the aggregate deposits received by any qualified public depository exceed thirty percent of the total aggregate deposits of all public treasurers in all depositories as determined by the public deposit protection commission. However, a qualified public depository may receive deposits in excess of the limits provided in this section if eligible securities, as prescribed in RCW 39.58.050, are pledged as collateral in an amount equal to one hundred percent of the value of deposits received in excess of the limitations prescribed in this section.

Sec. 2. Section 4, chapter 193, Laws of 1969 ex. sess. as last amended by section 12, chapter 177, Laws of 1984 and RCW 39.58.040 are each amended to read as follows:

The commission shall have power (1) to make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter; (2) to require any qualified public depository to furnish such information dealing with public deposits and the exact status of its net worth as the commission shall request. Any public depository which refuses or neglects to give promptly and accurately or to allow verification of any information so requested shall no longer be a qualified public depository and shall be excluded from the right to receive or hold public deposits until such time as the commission shall acknowledge that such depository has furnished the information requested; (3) to take such action as it deems best

for the protection, collection, compromise or settlement of any claim arising in case of loss; (4) to prescribe regulations, subject to this chapter, fixing the requirements for qualification of financial institutions as public depositories, and fixing other terms and conditions consistent with this chapter, under which public deposits may be received and held; (5) to make and enforce regulations setting forth criteria establishing minimum standards for the financial condition of bank and thrift depositories and, if the minimum standards are not met, providing for additional collateral requirements or restrictions regarding a depository's right to receive or hold public deposits. (6) to fix the official date on which any loss shall be deemed to have occurred taking into consideration the orders, rules and regulations of supervisory authority as they affect the failure or inability of a qualified public depository to repay public deposits in full; ~~((6))~~ (7) in case loss occurs in more than one qualified public depository, to determine the allocation and time of payment of any sums due to public depositors under this chapter.

Passed the Senate February 17, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 26

[Engrossed Senate Bill No. 4609]

COUNTY RAIL DISTRICTS

AN ACT Relating to county rail districts; adding new sections to chapter 36.60 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. The method of establishing, modifying, or dissolving a county rail district in sections 2 through 4 of this act is an alternate method to that specified in RCW 36.60.020.

NEW SECTION. Sec. 2. A petition to establish, modify the boundaries, or dissolve a county rail district shall be filed with the county legislative authority. The petition shall be signed by the owners of property valued at not less than seventy-five percent according to the assessed valuation for general taxation of the property for which establishment, modification or dissolution is petitioned. The petition shall set forth a legal description of the property and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed.

NEW SECTION. Sec. 3. If a petition to establish, modify the boundaries, or dissolve a county rail district is filed with the county legislative authority that complies with the requirements specified in section 2 of this act, the legislative authority may accept the petition, fix a date for a public hearing, and publish notice of the hearing in one issue of the official county

newspaper. The notice shall also be posted in three public places within the area proposed for establishment, modification, or dissolution, and shall specify the time and place of hearing. The expense of publication and posting of the notice shall be paid by the signers of the petition.

NEW SECTION. Sec. 4. Following the hearing, the county legislative authority shall determine by resolution whether the area proposed shall establish, modify the boundaries, or dissolve the county rail district. They may include all or any portion of the proposed area but may not include any property not described in the petition.

NEW SECTION. Sec. 5. All property annexed to a county rail district by a boundary modification under sections 2 through 4 of this act shall assume all or any portion of the outstanding indebtedness of the county rail district existing at the date of modification.

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

NEW SECTION. Sec. 7. Sections 1 through 5 of this act are each added to chapter 36.60 RCW.

Passed the Senate February 17, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 27

[Substitute Senate Bill No. 4629]

PSYCHOLOGISTS—LICENSING

AN ACT Relating to psychologists; amending RCW 18.83.020, 18.83.035, 18.83.050, 18.83.080, 18.83.100, 18.83.130, 18.83.190, 18.83.200, and 43.131.323; and adding new sections to chapter 18.83 RCW.

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

Sec. 1. Section 2, chapter 305, Laws of 1955 as amended by section 2, chapter 70, Laws of 1965 and RCW 18.83.020 are each amended to read as follows:

(1) To safeguard the people of the state of Washington from the dangers of unqualified and improper practice of psychology, it ~~((shall be))~~ is unlawful for any person ~~((unless exempted from the provisions of))~~ to whom this chapter((-)) applies to represent himself or herself to be a psychologist without first obtaining a license as provided in this chapter.

(2) A person represents himself or herself to be a psychologist when ~~((he))~~ the person adopts or uses any title or any description of services

which incorporates one or more of the following terms: "psychology," "psychological," "psychologist," or any term of like import.

Sec. 2. Section 76, chapter 279, Laws of 1984 and RCW 18.83.035 are each amended to read as follows:

There is created the examining board of psychology which shall examine the qualifications of applicants for licensing. The board shall consist of seven psychologists and two public members, all appointed by the governor. The public members shall not be and have never been psychologists or in training to be psychologists; they may not have any household member who is a psychologist or in training to be a psychologist; they may not participate or ever have participated in a commercial or professional field related to psychology, nor have a household member who has so participated; and they may not have had within two years before appointment a substantial financial interest in a person regulated by the board. Each psychologist member of the board shall be a citizen of the United States who has actively practiced psychology in the state of Washington for at least three years immediately preceding appointment and who is licensed under this chapter. Each member of the board shall serve for a term of five years. ~~((The members of the first board appointed after June 7, 1984, shall determine by lot psychologist members to serve for five, four, and three year terms to stagger the terms, with members of the board existing on June 7, 1984, serving the shorter terms. Public members of the first board appointed after June 7, 1984, shall choose one to serve for five years and one to serve for four years.))~~ Upon the death, resignation, or removal of a member, the governor shall appoint a successor to serve for the unexpired term. The board shall elect one of its members to serve as chairperson.

Sec. 3. Section 5, chapter 305, Laws of 1955 as last amended by section 78, chapter 279, Laws of 1984 and RCW 18.83.050 are each amended to read as follows:

(1) The board shall adopt such rules as it deems necessary to carry out its functions.

(2) The board shall examine the qualifications of applicants for licensing under this chapter, to determine which applicants are eligible for licensing ~~((hereunder))~~ under this chapter and shall forward to the director the names of applicants so eligible.

(3) The board shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examinations and shall require both written and oral examinations of each applicant, except as provided in RCW 18.83.170. The board may allow applicants to take the written examination upon the granting of their doctoral degree before completion of their internship for supervised experience.

(4) The board shall keep a complete record of its own proceedings, of the questions given in examinations, of the names and qualifications of all

applicants, and the names and addresses of all licensed psychologists. The examination paper of such applicant shall be kept on file for a period of at least one year after examination.

(5) The board shall, by rule, adopt a code of ethics for psychologists which is designed to protect the public interest.

(6) The board shall create a disciplinary committee within the board for the purposes of hearing, examining, and ruling on complaints and evidence of unethical conduct or practices brought by the public, other psychologists, organizations, corporations, public or private agencies, or officers, agencies, or instrumentalities of state, county, or local governments.

(7) The board may require that persons licensed under this chapter as psychologists obtain and maintain professional liability insurance in amounts determined by the board to be practicable and reasonably available.

Sec. 4. Section 8, chapter 305, Laws of 1955 as amended by section 8, chapter 70, Laws of 1965 and RCW 18.83.080 are each amended to read as follows:

Upon forwarding to the director by the board of the name of each applicant entitled to a license under this chapter, the director shall promptly issue to such applicant a license authorizing such applicant to use the title "psychologist" for a period of one year. Said license shall be in such form as the director shall determine. Each licensed psychologist shall keep his or her license displayed in a conspicuous place in his or her principal place of business.

Sec. 5. Section 10, chapter 305, Laws of 1955 as amended by section 10, chapter 70, Laws of 1965 and RCW 18.83.100 are each amended to read as follows:

Failure to renew a license as ~~((herein))~~ provided in this chapter shall suspend such license ~~((:PROVIDED, That)).~~ A license holder whose license has been suspended for failure to renew may reinstate such license by paying to the state treasurer the renewal fees for all of the years in which such failure occurred, together with a renewal fee for the current year, but not to exceed five years. However, no renewal license shall be issued ~~((after one year from the expiration of the last valid license))~~ unless the board shall find that the applicant has not violated any provision of this chapter since his or her license was suspended.

Sec. 6. Section 12, chapter 305, Laws of 1955 as last amended by section 85, chapter 279, Laws of 1984 and RCW 18.83.130 are each amended to read as follows:

The board shall refuse to grant a license to any applicant and shall revoke or suspend the license of any psychologist, or place other restrictions on that psychologist's practice of psychology, for the following reasons:

(1) Commission of any act involving moral turpitude, as defined by the board by rule, dishonesty, or corruption, which relates directly to a person's fitness to practice psychology, whether that act constitutes a crime or not; and if the act constitutes a crime, conviction thereof in criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction, the judgment and sentence shall be conclusive evidence at any ensuing disciplinary hearing of guilt of the psychologist of the crime described in the indictment or information and of the violation of the statute upon which it is based.

(2) Failing to maintain the confidentiality of information under RCW 18.83.110.

(3) Violations of the ethical code developed by the board under RCW 18.83.050 and 18.83.120.

(4) Failing to inform prospective research subjects or their authorized representatives of the possible serious effects of participation in research; and failing to undertake reasonable efforts to remove possible harmful effects of participation.

(5) Practicing in an area of psychology for which the person is clearly untrained or incompetent.

(6) Being negligent in the practice of psychology.

(7) Failing to exercise appropriate supervision over persons who practice under the supervision of a psychologist.

(8) Using fraud or deceit in the procurement of the psychology license, or knowingly assisting another in the procurement of such a license through fraud or deceit.

(9) Engaging in the practice of psychology while the person's ability to perform professional services is significantly impaired by alcohol, drugs, illness, or other dysfunctions.

(10) Engaging in the practice of psychology when the person's psychology license has been suspended or revoked by competent authority in any other state, federal, or foreign jurisdiction when the reason for that suspension or revocation is a violation of this chapter or rules adopted by the board and its disciplinary committee.

(11) Unprofessional conduct as defined in chapter 19.68 RCW.

(12) Wilful violation of RCW 18.83.120 or (~~section 79 of this 1984 act~~) 18.83.145 or wilful disregard of the subpoena or notice of the disciplinary committee.

(13) Failure to abide by the terms of corrective actions directed under RCW (~~18.83.150~~) 18.83.145.

(14) Violation of any board rule fixing a standard of professional conduct.

(15) Failure to maintain professional liability insurance when required by the board.

NEW SECTION. Sec. 7. A new section is added to chapter 18.83 RCW to read as follows:

Upon entering a judgment for professional negligence against a psychologist or a criminal conviction relating to professional confidence, a court shall transmit a copy of the judgment and any findings of fact to the disciplinary committee.

Sec. 8. Section 24, chapter 70, Laws of 1965 and RCW 18.83.190 are each amended to read as follows:

If any person represents himself or herself to be a psychologist, unless the person is exempt(ed) from the provisions of this chapter, without possessing a valid license, certificated qualification, or a temporary permit to do so, or if he or she violates any of the provisions of this chapter, any prosecuting attorney, the director, or any citizen of the same county may maintain an action in the name of the state to enjoin such person from representing himself or herself as a psychologist. The injunction shall not relieve the person from criminal prosecution, but the remedy by injunction shall be in addition to the liability of such offender to criminal prosecution and to suspension or revocation of his or her license.

NEW SECTION. Sec. 9. A new section is added to chapter 18.83 RCW to read as follows:

(1) Psychologists licensed under this chapter shall provide clients at the commencement of any program of treatment with accurate disclosure information concerning their practice, in accordance with guidelines developed by the board, which will inform clients of the purposes of and resources available under this chapter, including the right of clients to refuse treatment, the responsibility of clients for choosing the provider and treatment modality which best suits their needs, and the extent of confidentiality provided by this chapter. The disclosure information provided by the psychologist, the receipt of which shall be acknowledged in writing by the psychologist and client, shall include any relevant education and training, the therapeutic orientation of the practice, the proposed course of treatment where known, any financial requirements, and such other information as the board may require by rule.

(2) In in-patient settings, the health facility shall provide clients with the disclosure statement at the commencement of any program of treatment, and shall post the statement in a conspicuous location accessible to the client.

(3) The board shall provide for modification of the guidelines as appropriate in cases where the client has been referred by the court, a state agency, or other governmental body to a particular provider for specified evaluation or treatment.

Sec. 10. Section 19, chapter 70, Laws of 1965 and RCW 18.83.200 are each amended to read as follows:

This chapter shall not apply to:

(1) Any person teaching, lecturing, consulting, or engaging in research in psychology but only insofar as such activities are performed as a part of or are dependent upon a position in a college or university in the state of Washington.

(2) Any person who holds a valid school psychologist credential from the Washington state board of education but only when such a person is practicing psychology in the course of his or her employment.

(3) Any person employed by a local, state, or federal government agency whose psychologists must qualify for employment under federal or state certification or civil service regulations; but only at those times when that person is carrying out the functions of his or her employment.

(4) Any person who must qualify under the employment requirements of a business or industry and who is employed by a business or industry which is not engaged in offering psychological services to the public, but only when such person is carrying out the functions of his or her employment: PROVIDED, That no person exempt from licensing under this subsection shall engage in the clinical practice of psychology.

(5) Any person who is a student of psychology, psychological intern, or resident in psychology preparing for the profession of psychology under supervision in a training institution or facilities and who is designated by the title such as "psychological trainee," "psychology student," which thereby indicates his or her training status.

(6) Any person who has received a doctoral degree from an accredited institution of higher learning with an adequate major in sociology or social psychology as determined by the board and who has passed comprehensive examinations in the field of social psychology as part of the requirements for the doctoral degree. Such persons may use the title "social psychologist" provided that they file a statement of their education with the board.

Sec. 11. Section 94, chapter 279, Laws of 1984 as amended by section 109, chapter 7, Laws of 1985 and RCW 43.131.323 are each amended to read as follows:

The powers and duties of the examining board of psychology shall be terminated on June 30, ((1986)) 1992.

Passed the Senate February 14, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 28

[Senate Bill No. 4781]

PUBLIC DISCLOSURE—CONTRIBUTION REPORTS

AN ACT Relating to public disclosure; and amending RCW 42.17.080.

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

Sec. 1. Section 8, chapter 1, Laws of 1973 as last amended by section 6, chapter 147, Laws of 1982 and RCW 42.17.080 are each amended to read as follows:

(1) On the day the campaign treasurer is designated, each candidate or political committee shall file with the commission and the county auditor or elections officer of the county in which the candidate resides (or in the case of a political committee supporting or opposing a ballot proposition, the county in which the campaign treasurer resides), in addition to any statement of organization required under RCW 42.17.040 or 42.17.050 as now or hereafter amended, a report of all contributions received and expenditures made prior to that date, if any.

(2) At the following intervals each campaign treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides (or in the case of a political committee supporting or opposing a ballot proposition, the county in which the campaign maintains its office or headquarters and if there is no office or headquarters then in the county in which the campaign treasurer resides) a report containing the information required by RCW 42.17.090 as now or hereafter amended:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) Within twenty-one days after the date of the election: PROVIDED, That this report shall not be required following a primary election from:

(i) A candidate whose name will appear on the subsequent general election ballot; or

(ii) Any continuing political committee; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section: PROVIDED, That such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case

of a political committee, the committee has ceased to function and has dissolved, the campaign treasurer shall file a final report. Upon submitting a final report, the duties of the campaign treasurer shall cease and there shall be no obligation to make any further reports.

(3) For the period beginning the first day of the fourth month preceding the date on which the special or general election is held and ending on the date of that election, the campaign treasurer shall file with the commission and the appropriate county elections officer a report of each contribution received during that period at the time that contribution is deposited pursuant to RCW 42.17.060(1), as now or hereafter amended. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person: PROVIDED, That contributions of less than [than] twenty-five dollars from any one person may be deposited without identifying the contributor. A copy of the report shall be retained by the campaign treasurer for his records. In the event of deposits made by a deputy campaign treasurer, the copy shall be forwarded to the campaign treasurer to be retained by him for his records. Each report shall be certified as correct by the campaign treasurer or deputy campaign treasurer making the deposit.

(4) The campaign treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day and shall be open for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040 as now or hereafter amended, at the principal campaign headquarters or, if there is no campaign headquarters, at the address of the campaign treasurer or such other place as may be authorized by the commission. The campaign treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(5) All reports filed pursuant to subsections (1) or (2) of this section shall be certified as correct by the candidate and the campaign treasurer.

(6) Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040 as now or hereafter amended, at the principal campaign headquarters or, if there is no campaign headquarters, at the address of the

campaign treasurer or such other place as may be authorized by the commission.

Passed the Senate February 16, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 29

[Substitute Senate Bill No. 4758]

SPECIAL FUEL—KEYLOCK METERED PUMP

AN ACT Relating to tax on special fuel dispensed from a keylock metered pump; amending RCW 82.38.090; and repealing RCW 82.38.145.

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

NEW SECTION. Sec. 1. Section 21, chapter 40, Laws of 1979 and RCW 82.38.145 are each repealed.

Sec. 2. Section 10, chapter 175, Laws of 1971 ex. sess. as amended by section 5, chapter 40, Laws of 1979 and RCW 82.38.090 are each amended to read as follows:

It shall be unlawful for any person to act as a special fuel dealer, a special fuel supplier or a special fuel user in this state unless such person is the holder of an uncanceled special fuel dealer's, a special fuel supplier's or a special fuel user's license issued to him by the department. A special fuel supplier's license authorizes a person to sell special fuel without collecting the special fuel tax to other suppliers and dealers holding valid special fuel licenses.

A special fuel dealer's license authorizes a person to deliver previously untaxed special fuel into the fuel supply tanks of motor vehicles, collect the special fuel tax on behalf of the state at the time of delivery, and remit the taxes collected to the state as provided herein. A licensed special fuel dealer may also deliver untaxed special fuel into bulk storage facilities of a licensed special fuel user without collecting the special fuel tax. Special fuel dealers and suppliers, when making deliveries of special fuel into bulk storage to any person not holding a valid special fuel license must collect the special fuel tax at time of delivery, unless the person to whom the delivery is made is specifically exempted from the tax as provided herein.

A special fuel user's license authorizes a person to purchase special fuel into bulk storage for use in motor vehicles either on or off the public highways of this state without payment of the special fuel tax at time of purchase. Holders of special fuel licenses are all subject to the bonding, reporting, tax payment, and record-keeping provisions of this chapter. All purchases of special fuel by a licensed special fuel user directly into the fuel supply tank of a motor vehicle are subject to the special fuel tax at time of

purchase unless ~~((they have))~~ the purchaser has specific written authorization from the department as provided in RCW 82.38.040 or the purchase is made from an unattended keylock metered pump, cardrol, or such similar dispensing devices. Persons utilizing special fuel for heating purposes only are not required to be licensed.

Passed the Senate February 13, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 30

[Substitute Senate Bill No. 4757]

INDIAN TRIBES—MOTOR VEHICLES LICENSING RECIPROCITY

AN ACT Relating to motor vehicle licensing reciprocity; amending RCW 46.16.020 and 46.16.270; and adding new sections to chapter 46.16 RCW.

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

Sec. 1. Section 46.16.020, chapter 12, Laws of 1961 as last amended by section 5, chapter 169, Laws of 1975 1st ex. sess. and RCW 46.16.020 are each amended to read as follows:

Any vehicle owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington and used exclusively by them, and all vehicles owned or leased with an option to purchase by the United States government, or by the government of foreign countries, or by international bodies to which the United States government is a signatory by treaty, or owned or leased by the governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior, and used exclusively in its or their service shall be exempt from the payment of license fees for the licensing thereof as in this chapter provided: **PROVIDED, HOWEVER,** That such vehicles, except those owned and used exclusively by the United States government and which are identified by clearly exhibited registration numbers or license plates assigned by an instrumentality of that government, shall be registered as prescribed for the license registration of other vehicles and shall display the vehicle license number plates assigned to it. The department shall assign a plate or plates to each vehicle or may assign a block of plates to an agency or political subdivision for further assignment by the agency or political subdivision to individual vehicles registered to it pursuant to this section. The agency ~~((or)),~~ political subdivision, or Indian tribe, except a foreign government or international body, shall pay a fee of two dollars for the plate or plates for each vehicle ~~((--PROVIDED, FURTHER, That)).~~ An Indian tribe is not entitled to license and register any tribal government service vehicle under

this section if that tribe itself licenses or registers any tribal government service vehicles under tribal law. No vehicle license or license number plates shall be issued to any such vehicle under the provisions of this section for the transportation of school children unless and until such vehicle shall have been first personally inspected by the director or ((his)) the director's duly authorized representative.

NEW SECTION. Sec. 2. A new section is added to chapter 46.16 RCW to read as follows:

(1) The provisions of this chapter relating to licensing of vehicles by this state, including the display of vehicle license number plates and license registration certificates, do not apply to vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior, only when:

(a) The vehicle is used exclusively in tribal government service; and

(b) The vehicle has been licensed and registered under a law adopted by such tribal government; and

(c) Vehicle license number plates issued by the tribe showing the initial or abbreviation of the name of the tribe are displayed on the vehicle substantially as provided therefor in this state; and

(d) The tribe has not elected to receive any Washington state license plates for tribal government service vehicles pursuant to RCW 46.16.020; and

(e) If required by the department, the tribe provides the department with vehicle description and ownership information similar to that required for vehicles registered in this state, which may include the model year, make, model series, body type, type of power (gasoline, diesel, or other), VIN, and the license plate number assigned to each government service vehicle licensed by that tribe.

(2) The provisions of this section are operative as to a vehicle owned or leased by an Indian tribe located within this state and used exclusively in tribal government service only to the extent that under the laws of the tribe like exemptions and privileges are granted to all vehicles duly licensed under the laws of this state for operation of such vehicles on all tribal roads within the tribe's reservation. If under the laws of the tribe, persons operating vehicles licensed by this state are required to pay a license or registration fee or to carry or display vehicle license number plates or a registration certificate issued by the tribe, the tribal government shall comply with the provisions of this state's laws relating to the licensing and registration of vehicles operating on the highways of this state.

Sec. 3. Section 46.16.270, chapter 12, Laws of 1961 as last amended by section 7, chapter 169, Laws of 1975 1st ex. sess. and RCW 46.16.270 are each amended to read as follows:

Upon the loss, defacement, or destruction of one or both of the vehicle license number plates issued for any vehicle where more than one plate was originally issued or where one or both have become so illegible or in such a condition as to be difficult to distinguish, the owner of the vehicle shall make application for new vehicle license number plates upon a form furnished by the director, upon which form it shall be required that the owner, in addition to other requirements, make a complete statement as to the cause of the loss, defacement, or destruction of the original plate or plates, which statement shall be subscribed and sworn to before a notary public or other person authorized to certify to statements upon vehicle license applications. Such application shall be filed with the director or ~~((his))~~ the director's authorized agent, accompanied by the certificate of license registration of the vehicle and a fee in the amount of four dollars, whereupon the director, or ~~((his))~~ the director's authorized agent, shall issue new vehicle license number plates to the applicant. It shall be accompanied by a fee of two dollars for a new vehicle license number plate where only one was originally issued and one dollar for a new motorcycle license number plate. In the event the director has issued license period tabs or a windshield emblem instead of vehicle license number plates, and upon the loss, defacement or destruction of said tabs or windshield emblem, application shall be made on a form provided by the director and in the same manner as above described, and shall be accompanied by a fee of one dollar for each pair of tabs or for each windshield emblem, whereupon the director shall issue to the applicant a duplicate pair of tabs or a windshield emblem to replace those lost, defaced or destroyed: PROVIDED, That for those vehicles owned, rented, or leased by the state of Washington or by any county, city, town, school district, or other political subdivision of the state of Washington or United States government, or owned or leased by the governing body of an Indian tribe as defined in RCW 46.16.020, a fee shall be charged for replacement of a vehicle license number plate only to the extent required by the provisions of RCW 46.16.020, 46.16.061, 46.16.237, and 46.01.140: PROVIDED FURTHER, That for those vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty, the payment of any fee for the replacement of a vehicle license number plate shall not be required.

NEW SECTION. Sec. 4. A new section is added to chapter 46.16 RCW to read as follows:

The director may make and enforce rules to implement this chapter.

Passed the Senate February 17, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 31

[Senate Bill No. 4521]

DEATH INVESTIGATIONS—FORENSIC PATHOLOGY FELLOWSHIP
PROGRAM—UNIVERSITY OF WASHINGTON

AN ACT Relating to death investigations; amending RCW 43.79.445; adding a new section to chapter 28B.20 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28B.20 RCW to read as follows:

(1) A fellowship program in forensic pathology is created in the school of medicine at the University of Washington. The program shall provide training for one person per year. The program shall be funded from funds in the death investigation account of the general fund under RCW 43.79.445.

(2) The fellowship recipient, during the period of his or her fellowship, shall be available, as soon as his or her level of expertise warrants it, to the county coroners of the state without charge to perform autopsies, for consultations, and to provide testimony in court.

Sec. 2. Section 18, chapter 16, Laws of 1983 1st ex. sess. as amended by section 41, chapter 57, Laws of 1985 and RCW 43.79.445 are each amended to read as follows:

There is established an account in the state treasury referred to as the "death investigations' account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in section 20, chapter 16, Laws of 1983 1st ex. sess. and any moneys appropriated or otherwise provided thereafter. All earnings of investments of balances in the death investigations' account shall be credited to the general fund.

Moneys in the death investigations' account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The above-mentioned entities and individuals may submit billings to the state treasurer prior to December 31. The University of Washington may also submit billings for amounts not to exceed thirty-five thousand dollars per twelve-month period for the fellowship program in forensic pathology under section 1 of this 1986 act and the state treasurer shall make such payments for the fellowship program in forensic pathology under section 1 of this 1986 act.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1986.

Passed the Senate February 12, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 32

[House Bill No. 1371]

SCHOOL TRANSPORTATION—COMMERCIAL CHARTERED BUS SERVICE

AN ACT Relating to student transportation; and amending RCW 28A.24.055.

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

Sec. 1. Section 28A.24.055, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 61, Laws of 1983 1st ex. sess. and RCW 28A.24.055 are each amended to read as follows:

The operation of each local school district's student transportation program is declared to be the responsibility of the respective board of directors, and each board of directors shall determine such matters as which individual students shall be transported and what routes shall be most efficiently utilized. State moneys allocated to local districts for student transportation shall be spent only for student transportation activities, but need not be spent by the local district in the same manner as calculated and allocated by the state.

A school district is authorized to provide for the transportation of students enrolled in the school or schools of the district both in the case of students who reside within the boundaries of the district and of students who reside outside the boundaries of the district.

When children are transported from one school district to another the board of directors of the respective districts may enter into a written contract providing for a division of the cost of such transportation between the districts.

~~((When commercial charter bus service is not reasonably available to a school district, the state board of education may authorize the use of))~~
School districts may use school buses and drivers hired by the district or commercial chartered bus service for the transportation of school children and the school employees necessary for their supervision to and from any school activities within or without the school district during or after school hours and whether or not a required school activity, so long as the school board has officially designated it as a school activity. For any extra-curricular uses, the school board shall charge an amount sufficient to reimburse the district for its cost.

In addition to the right to contract for the use of buses provided in RCW 28A.24.170 and 28A.24.172, any school district may contract to furnish the use of school buses of that district to other users who are engaged in conducting an educational or recreational program supported wholly or in part by tax funds or programs for elderly persons at times when those buses are not needed by that district and under such terms as will fully reimburse such school district for all costs related or incident thereto: PROVIDED,

HOWEVER, That no such use of school district buses shall be permitted except where other public or private transportation certificated or licensed by the Washington utilities and transportation commission is not reasonably available to the user: PROVIDED FURTHER, That no user shall be required to accept any charter bus for services which the user believes might place the health or safety of the children or elderly persons in jeopardy.

Whenever any persons are transported by the school district in its own motor vehicles and by its own employees, the board may provide insurance to protect the district against loss, whether by reason of theft, fire or property damage to the motor vehicle or by reason of liability of the district to persons from the operation of such motor vehicle.

The board may provide insurance by contract purchase for payment of hospital and medical expenses for the benefit of persons injured while they are on, getting on, or getting off any vehicles enumerated herein without respect to any fault or liability on the part of the school district or operator. This insurance may be provided without cost to the persons notwithstanding the provisions of RCW 28A.58.420.

If the transportation of children or elderly persons is arranged for by contract of the district with some person, the board may require such contractor to procure such insurance as the board deems advisable.

Passed the House January 27, 1986.

Passed the Senate February 27, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 33

[Substitute House Bill No. 1335]

PERSONAL SERVICE CONTRACTS

AN ACT Relating to personal services contracts; amending RCW 39.29.040; and adding new sections to chapter 39.29 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 39.29 RCW to read as follows:

The legislature finds that: (1) The state of Washington spends in excess of seventy million dollars per biennium on personal service contracts; (2) there exists widespread confusion regarding definitions, accounting practices, and selection procedures, which, in turn, lead to the use of personal service contracts when they are not appropriate or in a manner that is not cost-effective. In addition, the legislature finds that neither the executive nor the legislative branches of government have oversight procedures which are adequate enough to allow them to determine the true extent of personal service contract use or abuse. Therefore, the legislature finds that it is in the

public interest to establish oversight procedures so that the extent and appropriateness of personal service contracting by the state may be adequately evaluated.

NEW SECTION. Sec. 2. A new section is added to chapter 39.29 RCW to read as follows:

(1) No later than October 31, 1986, and each year thereafter, every agency which enters into personal service contracts shall submit a report listing all personal service contracts that were entered into, amended, or renewed during the immediately preceding fiscal year.

(2) Each report required under this section shall include for each contract or category of contracts: (a) A designation showing which contracts were entered into under a competitive process; (b) a designation showing which contracts and amendments to contracts were filed under RCW 39.29.010 and 39.29.020; (c) a designation showing which contracts were reported as personal service contracts for agency accounting purposes; and (d) the maximum cost of each contract or category of contracts.

(3) The reports required under this section shall include contracts: (a) For those services defined in RCW 39.29.006; (b) for those services which are excluded under RCW 39.29.006 because they are considered routine, continuing, and necessary in nature; (c) for those services entered into under chapter 39.80 RCW; and (d) for those services otherwise exempt from this chapter under RCW 39.29.040 (1), (2), and (3).

(4) The director of financial management shall establish procedures necessary for carrying out the purposes of this section. Such procedures shall include, at a minimum, a format for reporting contracts and the establishment of categories in which contracts may be grouped.

(5) The reports required under this section shall be submitted to the office of the governor, the office of financial management, and the legislative budget committee.

Sec. 3. Section 4, chapter 61, Laws of 1979 ex. sess. and RCW 39.29.040 are each amended to read as follows:

Except as provided in section 2 of this 1986 act, this chapter does not apply to:

(1) Contracts specifying a fee of less than two thousand five hundred dollars if the total of such contracts from that agency with the contractor within a twelve-month period does not exceed two thousand five hundred dollars;

(2) Contracts awarded through competitive bids if the bidding follows a formal, documented bid procedure and if the request for bids is advertised through the media normally used by the particular service being sought: **PROVIDED**, That for management purposes, the office of financial management may require the filing of certain contracts exempted under this subsection;

(3) Contracts where the contracting agency recognizes that an employee-employer relationship exists;

(4) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(5) Intergovernmental agreements awarded to any public corporation, whether federal, state, or local and any department, division, or subdivision thereof; and

(6) Contracts awarded for services to be performed for a standard fee, when the standard fee is established by the contracting agency or any other public corporation and a like contract is available to all qualified applicants.

Passed the House January 27, 1986.

Passed the Senate February 27, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 34

[Engrossed House Bill No. 1442]

OIL AND GAS LEASES

AN ACT Relating to oil and gas leases on state lands; amending RCW 79.14.020; and declaring an emergency.

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

Sec. 1. Section 2, chapter 131, Laws of 1955 as amended by section 2, chapter 459, Laws of 1985 and RCW 79.14.020 are each amended to read as follows:

The commissioner is authorized to lease public lands for the purpose of prospecting for, developing and producing oil, gas or other hydrocarbon substances. Each such lease is to be composed of not more than six hundred forty acres or an entire government surveyed section, except a lease on river bed, lake bed, tide and submerged lands which is to be composed of not more than one thousand nine hundred twenty acres. All leases shall contain such terms and conditions as may be prescribed by the rules and regulations adopted by the commissioner in accordance with the provisions of this chapter. Leases may be for an initial term of from five up to ten years and ~~((may)) shall~~ be extended for so long thereafter as lessee shall comply with ~~((the provisions hereof and))~~ one of the following conditions: (1) ((shall)) Prosecute development on the leased land with the due diligence of a prudent operator upon encountering oil, gas, or other hydrocarbon substances, ~~(2) produce any of said substances from the leased lands, ((or (2) shall be engaged))~~ (3) engage in drilling, deepening, repairing, or redrilling any well thereon, ~~((or be thereafter excused therefrom but not to exceed a period of twenty years, except the lease shall be continued for a producing well as~~

~~long as it is producing)) or ((is covered by)) (4) participate in a unit plan to which the commissioner has consented ((to participate in)) under RCW 78.52.450.~~

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

Passed the House February 6, 1986.

Passed the Senate February 27, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 35

[Substitute House Bill No. 1451]

INVESTMENT SECURITIES

AN ACT Relating to investment securities; amending RCW 62A.8-102, 62A.8-103, 62A.8-104, 62A.8-105, 62A.8-106, 62A.8-107, 62A.8-201, 62A.8-202, 62A.8-203, 62A.8-204, 62A.8-205, 62A.8-206, 62A.8-207, 62A.8-208, 62A.8-301, 62A.8-302, 62A.8-303, 62A.8-304, 62A.8-305, 62A.8-306, 62A.8-307, 62A.8-308, 62A.8-309, 62A.8-310, 62A.8-311, 62A.8-312, 62A.8-313, 62A.8-314, 62A.8-315, 62A.8-316, 62A.8-317, 62A.8-318, 62A.8-319, 62A.8-320, 62A.8-401, 62A.8-402, 62A.8-403, 62A.8-404, 62A.8-405, 62A.8-406, 62A.9-103, 62A.9-105, 62A.9-203, 62A.9-302, 62A.9-304, 62A.9-305, 62A.9-309, 62A.9-312, 62A.1-201, 62A.5-114, 23A.08.190, 23A.08.200, 23A.08.310, 23A.08.320, 23A.08.330, and 23A.24.040; adding a new section to chapter 23A.08 RCW; and adding new sections to Article 8 of Title 62A RCW.

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

PART I

SHORT TITLE AND GENERAL MATTERS

Sec. 1. Section 8-102, chapter 157, Laws of 1965 ex. sess. as amended by section 1, chapter 98, Laws of 1973 and RCW 62A.8-102 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article, unless the context otherwise requires:

- (a) ~~((A "security" is an instrument which~~
- ~~(i) is issued in bearer or registered form; and~~
- ~~(ii) is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and~~
- ~~(iii) is either one of a class or series or by its terms is divisible into a class or series of instruments; and~~
- ~~(iv) evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.~~

(b)) A "certificated security" is a share, participation, or other interest in property of or an enterprise of the issuer or an obligation of the issuer which is

(i) represented by an instrument issued in bearer or registered form;

(ii) of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and

(iii) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(b) An "uncertificated security" is a share, participation, or other interest in property of or an enterprise of the issuer or an obligation of the issuer which is

(i) not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) of a type commonly dealt in on securities exchanges or markets; and

(iii) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(c) A "security" is either a certificated or an uncertificated security. If a security is certificated, the terms "security" and "certificated security" may mean either the intangible interest, the instrument representing that interest, or both, as the context requires. A writing ((which)) that is a certificated security is governed by this Article and not by ((Uniform Commercial Code—Commercial Paper)) Article 3, even though it also meets the requirements of that Article. This Article does not apply to money. If a certificated security has been retained by or surrendered to the issuer or its transfer agent for reasons other than registration of transfer, other temporary purpose, payment, exchange, or acquisition by the issuer, that security shall be treated as an uncertificated security for purposes of this Article.

((c)) (d) A certificated security is in "registered form" ((when)) if

(i) it specifies a person entitled to the security or ((to)) the rights it ((evidences)) represents, and ((when))

(ii) its transfer may be registered upon books maintained for that purpose by or on behalf of ((an)) the issuer, or the security so states.

((d)) (e) A certificated security is in "bearer form" ((when)) if it runs to bearer according to its terms and not by reason of any indorsement.

(2) A "subsequent purchaser" is a person who takes other than by original issue.

(3) A "clearing corporation" is a corporation registered as a "clearing agency" under the federal securities laws or a corporation((-):

(a) At least ((ninety)) 90 percent of ((the)) whose capital stock ((of which)) is held by or for one or more ((persons (other than individuals);)) organizations, none of which, other than a national securities exchange or

association, holds in excess of 20 percent of the capital stock of the corporation, and each of ((whom)) which is

(i) ~~((is))~~ subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws, ~~((or))~~

(ii) ~~((is))~~ a broker or dealer or investment company registered under the ~~((Securities Exchange Act of 1934 or the Investment Company Act of 1940))~~ federal securities laws, or

(iii) ~~((is))~~ a national securities exchange or association registered under ~~((a statute of the United States such as the Securities Exchange Act of 1934))~~ the federal securities laws; and ~~((none of whom, other than a national securities exchange or association, holds in excess of twenty percent of the capital stock of such corporation; and))~~

(b) Any remaining capital stock of which is held by individuals who have purchased ~~((such capital stock))~~ it at or prior to the time of their taking office as directors of ~~((such))~~ the corporation and who have purchased only so much of ~~((such))~~ the capital stock as ~~((may be))~~ is necessary to permit them to qualify as ~~((such))~~ directors.

(4) A "custodian bank" is ~~((any))~~ a bank or trust company ~~((which))~~ that is supervised and examined by state or federal authority having supervision over banks and ~~((which))~~ is acting as custodian for a clearing corporation.

(5) Other definitions applying to this Article or to specified Parts thereof and the sections in which they appear are:

"Adverse claim". RCW ~~((62A.8-301))~~ 62A.8-302.

"Bona fide purchaser". RCW 62A.8-302.

"Broker". RCW 62A.8-303.

"Debtor". RCW 62A.9-105.

"Financial intermediary". RCW 62A.8-313.

"Guarantee of the signature". RCW 62A.8-402.

"Initial transaction statement". RCW 62A.8-408.

"Instruction". RCW 62A.8-308.

"Intermediary bank". RCW 62A.4-105.

"Issuer". RCW 62A.8-201.

"Overissue". RCW 62A.8-104.

"Secured party". RCW 62A.9-105.

"Security agreement". RCW 62A.9-105.

(6) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 2. Section 8-103, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-103 are each amended to read as follows:

ISSUER'S LIEN. A lien upon a security in favor of an issuer thereof is valid against a purchaser only if:

(a) the security is certificated and the right of the issuer to ((such)) the lien is noted conspicuously ((on the security)) thereon; or

(b) the security is uncertificated and a notation of the right of the issuer to the lien is contained in the initial transaction statement sent to the purchaser or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

Sec. 3. Section 8-104, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-104 are each amended to read as follows:

EFFECT OF OVERISSUE; "OVERISSUE". (1) The provisions of this Article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue; but if:

(a) ((if)) an identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase ((and deliver such a) the security ((to)) for him and either to deliver a certificated security or to register the transfer of an uncertificated security to him, against surrender of ((the)) any certificated security((; if any, which)) he holds; or

(b) ((if)) a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand.

(2) "Overissue" means the issue of securities in excess of the amount ((which)) the issuer has corporate power to issue.

Sec. 4. Section 8-105, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-105 are each amended to read as follows:

CERTIFICATED SECURITIES NEGOTIABLE; STATEMENTS AND INSTRUCTIONS NOT NEGOTIABLE; PRESUMPTIONS. (1) Certificated securities governed by this Article are negotiable instruments.

(2) Statements (RCW 62A.8-408), notices, or the like, sent by the issuer of uncertificated securities and instructions (RCW 62A.8-308) are neither negotiable instruments nor certificated securities.

(3) In any action on a security;

(a) unless specifically denied in the pleadings, each signature on ((the)) a certificated security ((or)), in a necessary indorsement, on an initial transaction statement, or on an instruction, is admitted;

(b) ((when)) if the effectiveness of a signature is put in issue, the burden of establishing it is on the party claiming under the signature, but the signature is presumed to be genuine or authorized;

(c) ((when)) if signatures on a certificated security are admitted or established, production of the ((instrument)) security entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; ((and))

(d) if signatures on an initial transaction statement are admitted or established, the facts stated in the statement are presumed to be true as of the time of its issuance; and

(c) after it is shown that a defense or defect exists, the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defense or defect is ineffective (RCW 62A.8-202).

Sec. 5. Section 8-106, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-106 are each amended to read as follows:

APPLICABILITY. The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the validity of a security, the effectiveness of registration by the issuer, and the rights and duties of the issuer with respect to:

(a) registration of transfer ((are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer)) of a certificated security;

(b) registration of transfer, pledge, or release of an uncertificated security; and

(c) sending of statements of uncertificated securities.

Sec. 6. Section 8-107, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-107 are each amended to read as follows:

SECURITIES ((DELIVERABLE)) TRANSFERABLE; ACTION FOR PRICE. (1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to ((deliver)) transfer securities may ((deliver)) transfer any certificated security of the specified issue in bearer form or registered in the name of the transferee, or indorsed to him or in blank, or he may transfer an equivalent uncertificated security to the transferee or a person designated by the transferee.

(2) ((When)) If the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price of:

(a) ((of)) certificated securities accepted by the buyer; ((and))

(b) ((of)) uncertificated securities that have been transferred to the buyer or a person designated by the buyer; and

(c) other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

NEW SECTION. Sec. 7. A new section is added to Article 8 of Title 62A RCW to read as follows:

REGISTRATION OF PLEDGE AND RELEASE OF UNCERTIFICATED SECURITIES. A security interest in an uncertificated security may be evidenced by the registration of pledge to the secured party or a person designated by him. There can be no more than one registered pledge of an uncertificated security at any time. The registered owner of an uncertificated security is the person in whose name the security is registered, even if the security is subject to a registered pledge. The rights of a registered pledgee of an uncertificated security under this Article are terminated by the registration of release.

PART 2
ISSUE—ISSUER

Sec. 8. Section 8-201, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-201 are each amended to read as follows:

"ISSUER". (1) With respect to obligations on or defenses to a security, "issuer" includes a person who:

(a) places or authorizes the placing of his name on a certificated security (otherwise than as authenticating trustee, registrar, transfer agent, or the like) to evidence that it represents a share, participation, or other interest in his property or in an enterprise, or to evidence his duty to perform an obligation ~~((evidenced))~~ represented by the certificated security; ~~((or))~~

(b) creates shares, participations or other interests in his property or in an enterprise or undertakes obligations, which shares, participations, interests, or obligations are uncertificated securities;

(c) directly or indirectly creates fractional interests in his rights or property, which fractional interests are ~~((evidenced))~~ represented by certificated securities; or

~~((c))~~ (d) becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security, a guarantor is an issuer to the extent of his guaranty, whether or not his obligation is noted on ~~((the))~~ a certificated security or on statements of uncertificated securities sent pursuant to RCW 62A.8-408.

(3) With respect to registration of transfer, pledge, or release (Part 4 of this Article), "issuer" means a person on whose behalf transfer books are maintained.

Sec. 9. Section 8-202, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-202 are each amended to read as follows:

ISSUER'S RESPONSIBILITY AND DEFENSES; NOTICE OF DEFECT OR DEFENSE. (1) Even against a purchaser for value and without notice, the terms of a security include:

(a) if the security is certificated, those stated on the security;

(b) if the security is uncertificated, those contained in the initial transaction statement sent to such purchaser, or if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or registered pledgee; and

(c) those made part of the security by reference, on the certificated security or in the initial transaction statement, to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order or the like, to the extent that the terms ~~((so))~~ referred to do not conflict with the ~~((stated))~~ terms stated on the certificated security or contained in the statement. ~~((Such))~~ A reference under this paragraph does not of itself charge a purchaser for value with notice of a defect going to the validity

of the security, even though the certificated security or statement expressly states that a person accepting it admits ~~((such))~~ notice.

(2) ~~((a))~~ A certificated security in the hands of a purchaser for value or an uncertificated security as to which an initial transaction statement has been sent to a purchaser for value, other than ~~((one))~~ a security issued by a government or governmental agency or unit, even though issued with a defect going to its validity, is valid ~~((in the hands of a))~~ with respect to the purchaser ~~((for value and))~~ if he is without notice of the particular defect unless the defect involves a violation of constitutional provisions, in which case the security is valid ~~((in the hands of))~~ with respect to a subsequent purchaser for value and without notice of the defect.

~~((b))~~ ~~The rule of subparagraph (a))~~ This subsection applies to an issuer ~~((which))~~ that is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as ~~((otherwise))~~ provided in the case of certain unauthorized signatures ~~((on issue))~~ (RCW 62A.8-205), lack of genuineness of a certificated security or an initial transaction statement is a complete defense, even against a purchaser for value and without notice.

(4) All other defenses of the issuer of a certificated or uncertificated security, including nondelivery and conditional delivery of ~~((the))~~ a certificated security, are ineffective against a purchaser for value who has taken without notice of the particular defense.

(5) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security ~~((which))~~ that is the subject of the contract or in the plan or arrangement pursuant to which ~~((such))~~ the security is to be issued or distributed.

Sec. 10. Section 8-203, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-203 are each amended to read as follows:

STALENESS AS NOTICE OF DEFECTS OR DEFENSES. (1) After an act or event ~~((which creates))~~ creating a right to immediate performance of the principal obligation ~~((evidenced))~~ represented by ~~((the))~~ a certificated security or ~~((which))~~ that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer if:

(a) ~~((if))~~ the act or event is one requiring the payment of money ~~((or))~~, the delivery of certificated securities, the registration of transfer of

uncertificated securities, or ~~((both))~~ any of these on presentation or surrender of the certificated security ~~((and such))~~, the funds or securities are available on the date set for payment or exchange, and he takes the security more than one year after that date; and

(b) ~~((if))~~ the act or event is not covered by paragraph (a) and he takes the security more than ~~((two))~~ 2 years after the date set for surrender or presentation or the date on which ~~((such))~~ performance became due.

(2) A call ~~((which))~~ that has been revoked is not within subsection (1).

Sec. 11. Section 8-204, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-204 are each amended to read as follows:

EFFECT OF ISSUER'S RESTRICTIONS ON TRANSFER. ~~((Un- less noted conspicuously on the security))~~ A restriction on transfer of a security imposed by the issuer, even though otherwise lawful, is ineffective ~~((except))~~ against ~~((a))~~ any person ~~((with))~~ without actual knowledge of it unless:

(a) the security is certificated and the restriction is noted conspicuously thereon; or

(b) the security is uncertificated and a notation of the restriction is contained in the initial transaction statement sent to the person or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

Sec. 12. Section 8-205, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-205 are each amended to read as follows:

EFFECT OF UNAUTHORIZED SIGNATURE ON ~~((ISSUE))~~ CERTIFICATED SECURITY OR INITIAL TRANSACTION STATEMENT. An unauthorized signature placed on a certificated security prior to or in the course of issue or placed on an initial transaction statement is ineffective ~~((except that))~~, but the signature is effective in favor of a purchaser for value ~~((and))~~ of the certificated security or a purchaser for value of an uncertificated security to whom such initial transaction statement has been sent, if the purchaser is without notice of the lack of authority ~~((if))~~ and the signing has been done by:

(a) an authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security ~~((or))~~, of similar securities, or of initial transaction statements or ~~((their))~~ the immediate preparation for signing of any of them; or

(b) an employee of the issuer, or of any of the foregoing, entrusted with responsible handling of the security or initial transaction statement.

Sec. 13. Section 8-206, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-206 are each amended to read as follows:

COMPLETION OR ALTERATION OF ((INSTRUMENT)) CERTIFICATED SECURITY OR INITIAL TRANSACTION STATEMENT. (1) ((Where)) If a certificated security contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

(a) any person may complete it by filling in the blanks as authorized; and

(b) even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of ((such)) the incorrectness.

(2) A complete certificated security ((which)) that has been improperly altered, even though fraudulently, remains enforceable, but only according to its original terms.

(3) If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect:

(a) any person may complete it by filling in the blanks as authorized; and

(b) even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if he purchased the security referred to therein for value and without notice of the incorrectness.

(4) A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.

Sec. 14. Section 8-207, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-207 are each amended to read as follows:

RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO REGISTERED OWNERS AND REGISTERED PLEDGEEES. (1) Prior to due presentment for registration of transfer of a certificated security in registered form, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(2) Subject to the provisions of subsections (3), (4), and (6), the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(3) The registered owner of an uncertificated security that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction. The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.

(4) Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall:

(a) register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee;

(b) register the transfer of the security to the new owner subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee; or

(c) register the release of the security from the existing pledge and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.

(5) Continuity of perfection of a security interest is not broken by registration of transfer under subsection (4)(b) or by registration of release and pledge under subsection (4)(c), if the security interest is assigned.

(6) If an uncertificated security is subject to a registered pledge:

(a) any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge;

(b) any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee; and

(c) any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.

(7) Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.

Sec. 15. Section 8-208, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-208 are each amended to read as follows:

EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE, REGISTRAR, OR TRANSFER AGENT. (1) A person placing his signature upon a certificated security or an initial transaction statement as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the particular defect, that:

(a) the certificated security or initial transaction statement is genuine;
((and))

(b) his own participation in the issue or registration of the transfer, pledge, or release of the security is within his capacity and within the scope of the ((authorization)) authority received by him from the issuer; and

(c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects.

PART 3
 ((PURCHASE)) TRANSFER

Sec. 16. Section 8-301, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-301 are each amended to read as follows:

~~RIGHTS ACQUIRED BY PURCHASER((;"ADVERSE CLAIM"; TITLE ACQUIRED BY BONA FIDE PURCHASER)).~~ (1) Upon ~~((delivery))~~ transfer of a security to a purchaser (RCW 62A.8-313), the purchaser acquires the rights in the security which his transferor had or had actual authority to convey ~~((except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later bona fide purchaser. "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.~~

~~(2) A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.~~

~~(3)) unless the purchaser's rights are limited by RCW 62A.8-302(4).~~

(2) A ((purchaser)) transferee of a limited interest acquires rights only to the extent of the interest ((purchased)) transferred. The creation or release of a security interest in a security is the transfer of a limited interest in that security.

Sec. 17. Section 8-302, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-302 are each amended to read as follows:

"BONA FIDE PURCHASER"; "ADVERSE CLAIM"; TITLE ACQUIRED BY BONA FIDE PURCHASER. (1) A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim;

(a) who takes delivery of a certificated security in bearer form or ((of one)) in registered form, issued ((to him)) or indorsed to him or in blank;

(b) to whom the transfer, pledge or release of an uncertificated security is registered on the books of the issuer; or

(c) to whom a security is transferred under the provisions of paragraph (c), (d)(i), or (g) of RCW 62A.8-313(1).

(2) "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(3) A bona fide purchaser in addition to acquiring the rights of a purchaser (RCW 62A.8-301) also acquires his interest in the security free of any adverse claim.

(4) Notwithstanding RCW 62A.8-301(1), the transferee of a particular certificated security who has been a party to any fraud or illegality affecting the security, or who as a prior holder of that certificated security had notice of an adverse claim, cannot improve his position by taking from a bona fide purchaser.

Sec. 18. Section 8-303, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-303 are each amended to read as follows:

"BROKER". "Broker" means a person engaged for all or part of his time in the business of buying and selling securities, who in the transaction concerned acts for, ~~((or))~~ buys a security from, or sells a security to, a customer. Nothing in this Article determines the capacity in which a person acts for purposes of any other statute or rule to which ~~((such))~~ the person is subject.

Sec. 19. Section 8-304, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-304 are each amended to read as follows:

NOTICE TO PURCHASER OF ADVERSE CLAIMS. (1) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) of a certificated security is charged with notice of adverse claims if:

(a) the security, whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(b) the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) to whom the transfer, pledge, or release of an uncertificated security is registered is charged with notice of adverse claims as to which the issuer has a duty under RCW 62A.8-403(4) at the time of registration and which are noted in the initial transaction statement sent to the purchaser or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

(3) The fact that the purchaser (including a broker for the seller or buyer) of a certificated or uncertificated security has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute constructive notice of adverse claims. ~~((If;))~~ However, if the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or ~~((that))~~ the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

Sec. 20. Section 8-305, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-305 are each amended to read as follows:

STALENESS AS NOTICE OF ADVERSE CLAIMS. An act or event ~~((which))~~ that creates a right to immediate performance of the principal obligation ~~((evidenced))~~ represented by ~~((the))~~ a certificated security or ~~((which))~~ sets a date on or after which ~~((the))~~ a certificated security is to

be presented or surrendered for redemption or exchange does not ~~((of))~~ itself constitute any notice of adverse claims except in the case of a ~~((purchase))~~ transfer:

(a) after one year from any date set for ~~((such))~~ presentment or surrender for redemption or exchange; or

(b) after ~~((six))~~ 6 months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

Sec. 21. Section 8-306, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-306 are each amended to read as follows:

WARRANTIES ON PRESENTMENT AND TRANSFER OF CERTIFICATED SECURITIES; WARRANTIES OF ORIGINATORS OF INSTRUCTIONS. (1) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment, or exchange. But, a purchaser for value and without notice of adverse claims who receives a new, reissued, or re-registered certificated security on registration of transfer or receives an initial transaction statement confirming the registration of transfer of an equivalent uncertificated security to him warrants only that he has no knowledge of any unauthorized signature (RCW 62A.8-311) in a necessary indorsement.

(2) A person by transferring a certificated security to a purchaser for value warrants only that:

(a) his transfer is effective and rightful; ~~((and))~~

(b) the security is genuine and has not been materially altered; and

(c) he knows of no fact which might impair the validity of the security.

(3) ~~((Where))~~ If a certificated security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against ((such)) delivery, the intermediary by ((such)) delivery warrants only his own good faith and authority, even though he has purchased or made advances against the claim to be collected against the delivery.

(4) A pledgee or other holder for security who redelivers ~~((the))~~ a certificated security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subsection (3).

(5) A person who originates an instruction warrants to the issuer that:

(a) he is an appropriate person to originate the instruction; and

(b) at the time the instruction is presented to the issuer he will be entitled to the registration of transfer, pledge, or release.

(6) A person who originates an instruction warrants to any person specially guaranteeing his signature (RCW 62A.8-312(3)) that:

(a) he is an appropriate person to originate the instruction; and

(b) at the time the instruction is presented to the issuer

(i) he will be entitled to the registration of transfer, pledge, or release; and

(ii) the transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(7) A person who originates an instruction warrants to a purchaser for value and to any person guaranteeing the instruction (RCW 62A.8-312(6)) that:

(a) he is an appropriate person to originate the instruction;

(b) the uncertificated security referred to therein is valid; and

(c) at the time the instruction is presented to the issuer

(i) the transferor will be entitled to the registration of transfer, pledge, or release;

(ii) the transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction; and

(iii) the requested transfer, pledge, or release will be rightful.

(8) If a secured party is the registered pledgee or the registered owner of an uncertificated security, a person who originates an instruction of release or transfer to the debtor or, after payment and on order of the debtor, a transfer instruction to a third person, warrants to the debtor or the third person only that he is an appropriate person to originate the instruction and at the time the instruction is presented to the issuer, the transferor will be entitled to the registration of release or transfer. If a transfer instruction to a third person who is a purchaser for value is originated on order of the debtor, the debtor makes to the purchaser the warranties of paragraphs (b), (c)(ii) and (c)(iii) of subsection (7).

(9) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants only that:

(a) his transfer is effective and rightful; and

(b) the uncertificated security is valid.

(10) A broker gives to his customer and to the issuer and a purchaser the applicable warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of his customer.

Sec. 22. Section 8-307, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-307 are each amended to read as follows:

EFFECT OF DELIVERY WITHOUT INDORSEMENT; RIGHT TO COMPEL INDORSEMENT. (~~Where~~) If a certificated security in registered form has been delivered to a purchaser without a necessary indorsement he may become a bona fide purchaser only as of the time the indorsement is supplied(;) but against the transferor, the transfer is

complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

Sec. 23. Section 8-308, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-308 are each amended to read as follows:

~~((INDORSEMENT, HOW MADE, SPECIAL INDORSEMENT, INDORSER NOT A GUARANTOR, PARTIAL ASSIGNMENT))~~ INDORSEMENTS; INSTRUCTIONS. (1) An indorsement of a certificated security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or ((when the)) his signature ((of such person)) is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies ~~((the person))~~ to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) An indorsement purporting to be only of part of a certificated security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(4) An "instruction" is an order to the issuer of an uncertificated security requesting that the transfer, pledge, or release from pledge of the uncertificated security specified therein be registered.

(5) An instruction originated by an appropriate person is:

(a) a writing signed by an appropriate person; or

(b) a communication to the issuer in any form agreed upon in a writing signed by the issuer and an appropriate person.

If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed even though it has been completed incorrectly.

(6) "An appropriate person" in subsection (1) means ((a)) the person specified by the certificated security or by special indorsement to be entitled to the security((; or)).

(7) "An appropriate person" in subsection (5) means:

(a) for an instruction to transfer or pledge an uncertificated security which is then not subject to a registered pledge, the registered owner; or

(b) for an instruction to transfer or release an uncertificated security which is then subject to a registered pledge, the registered pledgee.

(8) In addition to the persons designated in subsections (6) and (7), "an appropriate person" in subsections (1) and (5) includes:

((b) where)) (a) if the person ((so specified)) designated is described as a fiduciary but is no longer serving in the described capacity,((=)) either that person or his successor; ((or

~~(c) where))~~ (b) if the ((security or indorsement so specifies)) persons designated are described as more than one person as fiduciaries and one or more are no longer serving in the described capacity,((=)) the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified; ((or

~~(d) where))~~ (c) if the person ((so specified)) designated is an individual and is without capacity to act by virtue of death, incompetence, infancy, or otherwise,((=)) his executor, administrator, guardian, or like fiduciary; ((or

~~(c) where))~~ (d) if the ((security or indorsement so specifies)) persons designated are described as more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign,((=)) the survivor or survivors; ((or

~~(f))~~ (e) a person having power to sign under applicable law or controlling instrument; ((or)) and

~~((g))~~ (f) to the extent that the person designated or any of the foregoing persons may act through an agent,((=)) his authorized agent.

~~((4))~~ (9) Unless otherwise agreed, the indorser of a certificated security by his indorsement or the originator of an instruction by his origination assumes no obligation that the security will be honored by the issuer but only the obligations provided in RCW 62A.8-306.

~~((5) An indorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.~~

~~(6))~~ (10) Whether the person signing is appropriate is determined as of the date of signing and an indorsement made by or an instruction originated by ((such a person)) him does not become unauthorized for the purposes of this Article by virtue of any subsequent change of circumstances.

~~((7))~~ (11) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, pledge, or release, does not render his indorsement or an instruction originated by him unauthorized for the purposes of this Article.

Sec. 24. Section 8-309, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-309 are each amended to read as follows:

EFFECT OF INDORSEMENT WITHOUT DELIVERY. An indorsement of a certificated security, whether special or in blank, does not constitute a transfer until delivery of the certificated security on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificated security.

Sec. 25. Section 8-310, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-310 are each amended to read as follows:

INDORSEMENT OF CERTIFICATED SECURITY IN BEARER FORM. An indorsement of a certificated security in bearer form may give

notice of adverse claims (RCW 62A.8-304) but does not otherwise affect any right to registration the holder (~~(may)~~) possesses.

Sec. 26. Section 8-311, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-311 are each amended to read as follows:

EFFECT OF UNAUTHORIZED INDORSEMENT OR INSTRUCTION. Unless the owner or pledgee has ratified an unauthorized indorsement or instruction or is otherwise precluded from asserting its ineffectiveness:

(a) he may assert its ineffectiveness against the issuer or any purchaser, other than a purchaser for value and without notice of adverse claims, who has in good faith received a new, reissued, or re-registered certificated security on registration of transfer or received an initial transaction statement confirming the registration of transfer, pledge, or release of an equivalent uncertificated security to him; and

(b) an issuer who registers the transfer of a certificated security upon the unauthorized indorsement or who registers the transfer, pledge, or release of an uncertificated security upon the unauthorized instruction is subject to liability for improper registration (RCW 62A.8-404).

Sec. 27. Section 8-312, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-312 are each amended to read as follows:

EFFECT OF GUARANTEEING SIGNATURE ((~~OR~~)), INDORSEMENT OR INSTRUCTION. (1) Any person guaranteeing a signature of an indorser of a certificated security warrants that at the time of signing:

(a) the signature was genuine; (~~and~~)

(b) the signer was an appropriate person to indorse (RCW 62A.8-308); and

(c) the signer had legal capacity to sign. (~~But the guarantor does not otherwise warrant the rightfulness of the particular transfer.~~)

(2) Any person guaranteeing a signature of the originator of an instruction warrants that at the time of signing:

(a) the signature was genuine;

(b) the signer was an appropriate person to originate the instruction (RCW 62A.8-308) if the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security was, in fact, the registered owner or registered pledgee of such security, as to which fact the signature guarantor makes no warranty;

(c) the signer had legal capacity to sign; and

(d) the taxpayer identification number, if any, appearing on the instruction as that of the registered owner or registered pledgee was the taxpayer identification number of the signer or of the owner or pledgee for whom the signer was acting.

(3) Any person specially guaranteeing the signature of the originator of an instruction makes not only the warranties of a signature guarantor (subsection (2)) but also warrants that at the time the instruction is presented to the issuer:

(a) the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security will be the registered owner or registered pledgee; and

(b) the transfer, pledge, or release of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(4) The guarantor under subsections (1) and (2) or the special guarantor under subsection (3) does not otherwise warrant the rightfulness of the particular transfer, pledge, or release.

(5) Any person ((may guarantee)) guaranteeing an indorsement of a certificated security ((and by so doing warrants not only the signature (subsection 1))) makes not only the warranties of a signature guarantor under subsection (1) but also warrants the rightfulness of the particular transfer in all respects. ((But no issuer may require a guarantee of indorsement as a condition to registration of transfer.

(3)) (6) Any person guaranteeing an instruction requesting the transfer, pledge, or release of an uncertificated security makes not only the warranties of a special signature guarantor under subsection (3) but also warrants the rightfulness of the particular transfer, pledge, or release in all respects.

(7) No issuer may require a special guarantee of signature (subsection (3)), a guarantee of indorsement (subsection (5)), or a guarantee of instruction (subsection (6)) as a condition to registration of transfer, pledge, or release.

(8) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee, and the guarantor is liable to ((such)) the person for any loss resulting from breach of the warranties.

Sec. 28. Section 8-313, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-313 are each amended to read as follows:

WHEN ((DELIVERY)) TRANSFER TO ((THE)) PURCHASER OCCURS((; PURCHASER'S BROKER AS HOLDER)); FINANCIAL INTERMEDIARY AS BONA FIDE PURCHASER; "FINANCIAL INTERMEDIARY". (1) ((Delivery)) Transfer of a security or a limited interest (including a security interest) therein to a purchaser occurs ((when)) only:

(a) at the time he or a person designated by him acquires possession of a certificated security; ((or))

(b) ((his broker)) at the time the transfer, pledge, or release of an uncertificated security is registered to him or a person designated by him;

(c) at the time his financial intermediary acquires possession of a certificated security specially indorsed to or issued in the name of the purchaser; ((or

(~~e~~) his broker)) (d) at the time a financial intermediary, not a clearing corporation, sends him confirmation of the purchase and also by book entry or otherwise identifies ((~~a specific security in the broker's possession~~)) as belonging to the purchaser((~~;~~ or

(~~d~~)) (i) a specific certificated security in the financial intermediary's possession;

(ii) a quantity of securities that constitute or are part of a fungible bulk of certificated securities in the financial intermediary's possession or of uncertificated securities registered in the name of the financial intermediary;
or

(iii) a quantity of securities that constitute or are part of a fungible bulk of securities shown on the account of the financial intermediary on the books of another financial intermediary;

(e) with respect to an identified certificated security to be delivered while still in the possession of a third person ((when)), not a financial intermediary, at the time that person acknowledges that he holds for the purchaser; ((or

(~~e~~)) (f) with respect to a specific uncertificated security the pledge or transfer of which has been registered to a third person, not a financial intermediary, at the time that person acknowledges that he holds for the purchaser;

(g) at the time appropriate entries to the account of the purchaser or a person designated by him on the books of a clearing corporation are made under RCW 62A.8-320;

(h) with respect to the transfer of a security interest where the debtor has signed a security agreement containing a description of the security, at the time a written notification, which, in the case of the creation of the security interest, is signed by the debtor (which may be a copy of the security agreement) or which, in the case of the release or assignment of the security interest created pursuant to this paragraph, is signed by the secured party, is received by

(i) a financial intermediary on whose books the interest of the transferor in the security appears;

(ii) a third person, not a financial intermediary, in possession of the security, if it is certificated;

(iii) a third person, not a financial intermediary, who is the registered owner of the security, if it is uncertificated and not subject to a registered pledge; or

(iv) a third person, not a financial intermediary, who is the registered pledgee of the security, if it is uncertificated and subject to a registered pledge;

(i) with respect to the transfer of a security interest where the transferor has signed a security agreement containing a description of the security, at the time new value is given by the secured party; or

(j) with respect to the transfer of a security interest where the secured party is a financial intermediary and the security has already been transferred to the financial intermediary under paragraphs (a), (b), (c), (d), or (g), at the time the transferor has signed a security agreement containing a description of the security and value is given by the secured party.

(2) ~~The purchaser is the owner of a security held for him by ((his broker, but is not the holder except as specified in subparagraphs (b), (c) and (e) of subsection (1). Where a security is part of a fungible bulk)) a financial intermediary, but cannot be a bona fide purchaser of a security so held except in the circumstances specified in paragraphs (c), (d)(i), and (g) of subsection (1). If a security so held is part of a fungible bulk, as in the circumstances specified in paragraphs (d)(ii) and (d)(iii) of subsection (1), the purchaser is the owner of a proportionate property interest in the fungible bulk.~~

(3) ~~Notice of an adverse claim received by the ((broker)) financial intermediary or by the purchaser after the ((broker)) financial intermediary takes delivery of a certificated security as a holder for value or after the transfer, pledge, or release of an uncertificated security has been registered free of the claim to a financial intermediary who has given value is not effective either as to the ((broker)) financial intermediary or as to the purchaser. However, as between the ((broker)) financial intermediary and the purchaser the purchaser may demand ((delivery)) transfer of an equivalent security as to which no notice of ((an)) adverse claim has been received.~~

(4) A "financial intermediary" is a bank, broker, clearing corporation or other person (or the nominee of any of them) which in the ordinary course of its business maintains security accounts for its customers and is acting in that capacity. A financial intermediary may have a security interest in securities held in account for its customer.

Sec. 29. Section 8-314, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-314 are each amended to read as follows:

DUTY TO ((DELIVER)) TRANSFER, WHEN COMPLETED. (1) Unless otherwise agreed ((where)), if a sale of a security is made on an exchange or otherwise through brokers:

(a) the selling customer fulfills his duty to ((deliver when he places such a)) transfer at the time he:

(i) places a certificated security in the possession of the selling broker or of a person designated by the broker ((or if requested causes an acknowledgment to be made to the selling broker that it is held for him; and));

(ii) causes an uncertificated security to be registered in the name of the selling broker or a person designated by the broker;

(iii) if requested, causes an acknowledgment to be made to the selling broker that a certificated or uncertificated security is held for the broker; or

(iv) places in the possession of the selling broker or of a person designated by the broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within 30 days thereafter; and

(b) the selling broker, including a correspondent broker acting for a selling customer, fulfills his duty to ~~((deliver by placing the security or a like))~~ transfer at the time he:

(i) places a certificated security in the possession of the buying broker or a person designated by ((him or by effecting)) the buying broker;

(ii) causes an uncertificated security to be registered in the name of the buying broker or a person designated by the buying broker;

(iii) places in the possession of the buying broker or of a person designated by the buying broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within 30 days thereafter; or

(iv) effects clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as ~~((otherwise))~~ provided in this section and unless otherwise agreed, a transferor's duty to ~~((deliver))~~ transfer a security under a contract of purchase is not fulfilled until he:

(a) places ((the)) a certificated security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by ((him or at the purchaser's request)) the purchaser;

(b) causes an uncertificated security to be registered in the name of the purchaser or a person designated by the purchaser; or

(c) if the purchaser requests, causes an acknowledgment to be made to the purchaser that ((it)) a certificated or uncertificated security is held for ((him)) the purchaser.

(3) Unless made on an exchange, a sale to a broker purchasing for his own account is within ~~((this))~~ subsection (2) and not within subsection (1).

Sec. 30. Section 8-315, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-315 are each amended to read as follows:

ACTION AGAINST ((PURCHASER)) TRANSFEREE BASED UPON WRONGFUL TRANSFER. (1) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, ~~((may))~~ as against anyone except a bona fide purchaser, may:

(a) reclaim possession of the certificated security ((or)) wrongfully transferred;

(b) obtain possession of any new certificated security ((evidencing)) representing all or part of the same rights ((or));

(c) compel the origination of an instruction to transfer to him or a person designated by him an uncertificated security constituting all or part of the same rights; or

(d) have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement of a certificated security, the owner may also reclaim or obtain possession of the security or a new certificated security, even from a bona fide purchaser, if the ineffectiveness of the purported indorsement can be asserted against him under the provisions of this Article on unauthorized indorsements (RCW 62A.8-311).

(3) The right to obtain or reclaim possession of a certificated security or to compel the origination of a transfer instruction may be specifically enforced and ~~((its))~~ the transfer of a certificated or uncertificated security enjoined and ~~((the))~~ a certificated security impounded pending the litigation.

Sec. 31. Section 8-316, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-316 are each amended to read as follows:

PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER, PLEDGE, OR RELEASE ON BOOKS. Unless otherwise agreed, the transferor ~~((must))~~ of a certificated security or the transferor, pledgor, or pledgee of an uncertificated security on due demand must supply his purchaser with any proof of his authority to transfer, pledge, or release or with any other requisite ~~((which may be))~~ necessary to obtain registration of the transfer, pledge, or release of the security; but if the transfer, pledge, or release is not for value, a transferor, pledgor, or pledgee need not do so unless the purchaser furnishes the necessary expenses. Failure within a reasonable time to comply with a demand made ~~((within a reasonable time))~~ gives the purchaser the right to reject or rescind the transfer, pledge, or release.

Sec. 32. Section 8-317, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-317 are each amended to read as follows:

~~((ATTACHMENT OR LEVY UPON SECURITY))~~ CREDITORS' RIGHTS. (1) Subject to the exceptions in subsections (3) and (4), no attachment or levy upon a certificated security or any share or other interest ~~((evidenced))~~ represented thereby which is outstanding ~~((shall be))~~ is valid until the security is actually seized by the officer making the attachment or levy, but a certificated security which has been surrendered to the issuer may be ~~((attached or levied upon at the source))~~ reached by a creditor by legal process at the issuer's chief executive office in the United States.

(2) An uncertificated security registered in the name of the debtor may not be reached by a creditor except by legal process at the issuer's chief executive office in the United States.

(3) The interest of a debtor in a certificated security that is in the possession of a secured party not a financial intermediary or in an uncertificated security registered in the name of a secured party not a financial intermediary (or in the name of a nominee of the secured party) may be reached by a creditor by legal process upon the secured party.

(4) The interest of a debtor in a certificated security that is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on whose books the interest of the debtor appears.

(5) Unless otherwise provided by law, a creditor's lien upon the interest of a debtor in a security obtained pursuant to subsection (3) or (4) is not a restraint on the transfer of the security, free of the lien, to a third party for new value; but in the event of a transfer, the lien applies to the proceeds of the transfer in the hands of the secured party or financial intermediary, subject to any claims having priority.

~~((2))~~ (6) A creditor whose debtor is the owner of a security (~~shall be~~) is entitled to (~~such~~) aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching (~~such~~) the security or in satisfying the claim by means (~~thereof as is~~) allowed at law or in equity in regard to property (~~which~~) that cannot readily be (~~attached or levied upon~~) reached by ordinary legal process.

Sec. 33. Section 8-318, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-318 are each amended to read as follows:

NO CONVERSION BY GOOD FAITH (~~DELIVERY~~) CONDUCT. An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the business of buying, selling, or otherwise dealing with securities) has received certificated securities and sold, pledged, or delivered them or has sold or caused the transfer or pledge of uncertificated securities over which he had control according to the instructions of his principal, is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right (~~to dispose of them~~) so to deal with the securities.

Sec. 34. Section 8-319, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-319 are each amended to read as follows:

STATUTE OF FRAUDS. A contract for the sale of securities is not enforceable by way of action or defense unless:

(a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker, sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; (~~or~~)

(b) delivery of (~~the~~) a certificated security or transfer instruction has been accepted, or transfer of an uncertificated security has been registered and the transferee has failed to send written objection to the issuer within

10 days after receipt of the initial transaction statement confirming the registration, or payment has been made, but the contract is enforceable under this provision only to the extent of ((such)) the delivery, registration, or payment; ((or))

(c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within ~~((ten))~~ 10 days after its receipt; or

(d) the party against whom enforcement is sought admits in his pleading, testimony, or otherwise in court that a contract was made for the sale of a stated quantity of described securities at a defined or stated price.

Sec. 35. Section 8-320, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-320 are each amended to read as follows:

TRANSFER OR PLEDGE WITHIN ((A)) CENTRAL DEPOSITORY SYSTEM. (1) In addition to other methods, a transfer, pledge, or release of a security or any interest therein may be effected by the making of appropriate entries on the books of a clearing corporation reducing the account of the transferor, pledgor, or pledgee and increasing the account of the transferee, pledgee, or pledgor by the amount of the obligation, or the number of shares or rights transferred, pledged, or released, if the security is shown on the account of a transferor, pledgor, or pledgee on the books of the clearing corporation; is subject to the control of the clearing corporation; and

(a) if ((a security)) certificated,

~~((a))~~ (i) is in the custody of ((a)) the clearing corporation ((or of)), another clearing corporation, a custodian bank or a nominee of ((either subject to the instructions of the clearing corporation)) any of them; and

~~((b))~~ (ii) is in bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation ((or)), a custodian bank, or a nominee of ((either; and

~~(c) is shown on the account of a transferor or pledgor on the books of the clearing corporation;~~

~~then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged)) any of them; or~~

(b) if uncertificated, is registered in the name of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them.

(2) Under this section entries may be made with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to

a quantity of a particular security without reference to the name of the registered owner, certificate or bond number, or the like, and, in appropriate cases, may be on a net basis taking into account other transfers ((or)), pledges, or releases of the same security.

(3) A transfer ((or pledge)) under this section ((has the effect of a delivery of a security in bearer form or duly indorsed in blank (RCW 62A.8-301) representing the amount of the obligation or the number of shares or rights transferred or pledged)) is effective (RCW 62A.8-313) and the purchaser acquires the rights of the transferor (RCW 62A.8-301). A pledge or release under this section is the transfer of a limited interest. If a pledge or the creation of a security interest is intended, ((the making of entries has the effect of a taking of delivery by the pledgee or a secured party (RCW 62A.9-304 and RCW 62A.9-305))) the security interest is perfected at the time when both value is given by the pledgee and the appropriate entries are made (RCW 62A.8-321). A transferee or pledgee under this section ((is a holder)) may be a bona fide purchaser (RCW 62A.8-302).

(4) A transfer or pledge under this section ((does)) is not ((constitute)) a registration of transfer under Part 4 ((of this Article)).

(5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries ((nor)) or the liabilities or obligations of the clearing corporation to any person adversely affected thereby.

NEW SECTION. Sec. 36. A new section is added to Article 8 of Title 62A RCW to read as follows:

ENFORCEABILITY, ATTACHMENT, PERFECTION AND TERMINATION OF SECURITY INTERESTS. (1) A security interest in a security is enforceable and can attach only if it is transferred to the secured party or a person designated by him pursuant to a provision of RCW 62A.8-313(1).

(2) A security interest so transferred pursuant to agreement by a transferor who has rights in the security to a transferee who has given value is a perfected security interest, but a security interest that has been transferred solely under paragraph (i) of RCW 62A.8-313(1) becomes unperfected after 21 days unless, within that time, the requirements for transfer under any other provision of RCW 62A.8-313(1) are satisfied.

(3) A security interest in a security is subject to the provisions of Article 9, but:

(a) no filing is required to perfect the security interest; and

(b) no written security agreement signed by the debtor is necessary to make the security interest enforceable, except as otherwise provided in paragraph (h), (i), or (j) of RCW 62A.8-313(1).

The secured party has the rights and duties provided under RCW 62A.9-207, to the extent they are applicable, whether or not the security is certificated, and, if certificated, whether or not it is in his possession.

(4) Unless otherwise agreed, a security interest in a security is terminated by transfer to the debtor or a person designated by him pursuant to a provision of RCW 62A.8-313(1). If a security is thus transferred, the security interest, if not terminated, becomes unperfected unless the security is certificated and is delivered to the debtor for the purpose of ultimate sale or exchange or presentation, collection, renewal, or registration of transfer. In that case, the security interest becomes unperfected after 21 days unless, within that time, the security (or securities for which it has been exchanged) is transferred to the secured party or a person designated by him pursuant to a provision of RCW 62A.8-313(1).

PART 4 REGISTRATION

Sec. 37. Section 8-401, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-401 are each amended to read as follows:

DUTY OF ISSUER TO REGISTER TRANSFER, PLEDGE, OR RELEASE. (1) ~~((Where))~~ If a certificated security in registered form is presented to the issuer with a request to register transfer or an instruction is presented to the issuer with a request to register transfer, pledge, or release, the issuer ~~((is under a duty to))~~ shall register the transfer, pledge, or release as requested if:

(a) the security is indorsed or the instruction was originated by the appropriate person or persons (RCW 62A.8-308); ~~((and))~~

(b) reasonable assurance is given that those indorsements or instructions are genuine and effective (RCW 62A.8-402); ~~((and))~~

(c) the issuer has no duty ~~((to inquire into))~~ as to adverse claims or has discharged ~~((any such))~~ the duty (RCW 62A.8-403); ~~((and))~~

(d) any applicable law relating to the collection of taxes has been complied with; and

(e) the transfer, pledge, or release is in fact rightful or is to a bona fide purchaser.

(2) ~~((Where))~~ If an issuer is under a duty to register a transfer, pledge, or release of a security, the issuer is also liable to the person presenting ~~((it))~~ a certificated security or an instruction for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer, pledge, or release.

Sec. 38. Section 8-402, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-402 are each amended to read as follows:

ASSURANCE THAT INDORSEMENTS AND INSTRUCTIONS ARE EFFECTIVE. (1) The issuer may require the following assurance that each necessary indorsement of a certificated security or each instruction (RCW 62A.8-308) is genuine and effective:

(a) in all cases, a guarantee of the signature ~~((subsection (1) of))~~ RCW 62A.8-312 (1) or (2) of the person indorsing a certificated security

or originating an instruction including, in the case of an instruction, a warranty of the taxpayer identification number or, in the absence thereof, other reasonable assurance of identity; ~~(and)~~

(b) ~~((where))~~ if the indorsement is made or the instruction is originated by an agent, appropriate assurance of authority to sign;

(c) ~~((where))~~ if the indorsement is made or the instruction is originated by a fiduciary, appropriate evidence of appointment or incumbency;

(d) ~~((where))~~ if there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

(e) ~~((where))~~ if the indorsement is made or the instruction is originated by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility ~~((provided such standards))~~ if they are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subsection (1) means:

(a) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within ~~((sixty))~~ 60 days before the date of presentation for transfer, pledge, or release; or

(b) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of ~~((such a))~~ that document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to ~~((such))~~ the evidence ~~((provided such standards))~~ if they are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph (b) except to the extent that the contents relate directly to the appointment or incumbency.

(4) The issuer may elect to require reasonable assurance beyond that specified in this section, but if it does so and, for a purpose other than that specified in subsection (3)(b), both requires and obtains a copy of a will, trust, indenture, articles of co-partnership, bylaws, or other controlling instrument, it is charged with notice of all matters contained therein affecting the transfer, pledge, or release.

Sec. 39. Section 8-403, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-403 are each amended to read as follows:

~~((LIMITED DUTY OF INQUIRY))~~ ISSUER'S DUTY AS TO ADVERSE CLAIMS. (1) An issuer to whom a certificated security is presented for registration ~~((is under a duty to))~~ shall inquire into adverse claims if:

(a) a written notification of an adverse claim is received at a time and in a manner ~~((which affords))~~ affording the issuer a reasonable opportunity

to act on it prior to the issuance of a new, reissued, or re-registered certificated security, and the notification identifies the claimant, the registered owner, and the issue of which the security is a part, and provides an address for communications directed to the claimant; or

(b) the issuer is charged with notice of an adverse claim from a controlling instrument (~~(which)~~) it has elected to require under (~~(subsection (4) of)~~) RCW 62A.8-402(4).

(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or, if there be no such address, at his residence or regular place of business that the certificated security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within (~~(thirty)~~) 30 days from the date of mailing the notification, either:

(a) an appropriate restraining order, injunction, or other process issues from a court of competent jurisdiction; or

(b) there is filed with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved(~~(;)~~) from any loss (~~(which)~~) it or they may suffer by complying with the adverse claim (~~(is filed with the issuer)~~).

(3) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under (~~(subsection (4) of)~~) RCW 62A.8-402(4) or receives notification of an adverse claim under subsection (1) (~~(of this section, where)~~), if a certificated security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular:

(a) an issuer registering a certificated security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship; and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;

(b) an issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(c) the issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee.

(4) An issuer is under no duty as to adverse claims with respect to an uncertificated security except:

(a) claims embodied in a restraining order, injunction, or other legal process served upon the issuer if the process was served at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);

(b) claims of which the issuer has received a written notification from the registered owner or the registered pledgee if the notification was received at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);

(c) claims (including restrictions on transfer not imposed by the issuer) to which the registration of transfer to the present registered owner was subject and were so noted in the initial transaction statement sent to him; and

(d) claims as to which an issuer is charged with notice from a controlling instrument it has elected to require under RCW 62A.8-402(4).

(5) If the issuer of an uncertificated security is under a duty as to an adverse claim, he discharges that duty by:

(a) including a notation of the claim in any statements sent with respect to the security under RCW 62A.8-408 (3), (6), and (7); and

(b) refusing to register the transfer or pledge of the security unless the nature of the claim does not preclude transfer or pledge subject thereto.

(6) If the transfer or pledge of the security is registered subject to an adverse claim, a notation of the claim must be included in the initial transaction statement and all subsequent statements sent to the transferee and pledgee under RCW 62A.8-408.

(7) Notwithstanding subsections (4) and (5), if an uncertificated security was subject to a registered pledge at the time the issuer first came under a duty as to a particular adverse claim, the issuer has no duty as to that claim if transfer of the security is requested by the registered pledgee or an appropriate person acting for the registered pledgee unless:

(a) the claim was embodied in legal process which expressly provides otherwise;

(b) the claim was asserted in a written notification from the registered pledgee;

(c) the claim was one as to which the issuer was charged with notice from a controlling instrument it required under RCW 62A.8-402(4) in connection with the pledgee's request for transfer; or

(d) the transfer requested is to the registered owner.

Sec. 40. Section 8-404, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-404 are each amended to read as follows:

LIABILITY AND NON-LIABILITY FOR REGISTRATION. (1) Except as ~~((otherwise))~~ provided in any law relating to the collection of taxes, the issuer is not liable to the owner, pledgee, or any other person suffering loss as a result of the registration of a transfer, pledge, or release of a security if:

(a) there were on or with ~~((the))~~ a certificated security the necessary indorsements or the issuer had received an instruction originated by an appropriate person (RCW 62A.8-308); and

(b) the issuer had no duty ~~((to inquire into))~~ as to adverse claims or has discharged ~~((any such))~~ the duty (RCW 62A.8-403).

(2) ~~((Where))~~ If an issuer has registered a transfer of a certificated security to a person not entitled to it, the issuer on demand ~~((must))~~ shall deliver a like security to the true owner unless:

(a) the registration was pursuant to subsection (1); ~~((or))~~

(b) the owner is precluded from asserting any claim for registering the transfer under ~~((subsection (1) of the following section))~~ RCW 62A.8-405(1); or

(c) ~~((such))~~ the delivery would result in overissue, in which case the issuer's liability is governed by RCW 62A.8-104.

(3) If an issuer has improperly registered a transfer, pledge, or release of an uncertificated security, the issuer on demand from the injured party shall restore the records as to the injured party to the condition that would have obtained if the improper registration had not been made unless:

(a) the registration was pursuant to subsection (1); or

(b) the registration would result in overissue, in which case the issuer's liability is governed by RCW 62A.8-104.

Sec. 41. Section 8-405, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-405 are each amended to read as follows:

LOST, DESTROYED, AND STOLEN CERTIFICATED SECURITIES. (1) ~~((Where))~~ If a certificated security has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving ~~((such a))~~ notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under ~~((the preceding section))~~ RCW 62A.8-404 or any claim to a new security under this section.

(2) ~~((Where))~~ If the owner of a certificated security claims that the security has been lost, destroyed, or wrongfully taken, the issuer ~~((must))~~ shall issue a new certificated security or, at the option of the issuer, an equivalent uncertificated security in place of the original security if the owner:

(a) so requests before the issuer has notice that the security has been acquired by a bona fide purchaser; ~~((and))~~

(b) files with the issuer a sufficient indemnity bond; and

(c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of ~~((the))~~ a new certificated or uncertificated security, a bona fide purchaser of the original certificated security presents it for registration of transfer, the issuer ~~((must))~~ shall register the transfer

unless registration would result in overissue, in which event the issuer's liability is governed by RCW 62A.8-104. In addition to any rights on the indemnity bond, the issuer may recover the new certificated security from the person to whom it was issued or any person taking under him except a bona fide purchaser or may cancel the uncertificated security unless a bona fide purchaser or any person taking under a bona fide purchaser is then the registered owner or registered pledgee thereof.

Sec. 42. Section 8-406, chapter 157, Laws of 1965 ex. sess. and RCW 62A.8-406 are each amended to read as follows:

DUTY OF AUTHENTICATING TRUSTEE, TRANSFER AGENT, OR REGISTRAR. (1) (~~Where~~) If a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its certificated securities or in the registration of transfers, pledges, and releases of its uncertificated securities, in the issue of new securities, or in the cancellation of surrendered securities:

(a) he is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and

(b) (~~he has~~) with regard to the particular functions he performs, he has the same obligation to the holder or owner of ((the)) a certificated security or to the owner or pledgee of an uncertificated security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other (~~such~~) agent is notice to the issuer with respect to the functions performed by the agent.

NEW SECTION. Sec. 43. A new section is added to Article 8 of Title 62A RCW to read as follows:

EXCHANGEABILITY OF SECURITIES. (1) No issuer is subject to the requirements of this section unless it regularly maintains a system for issuing the class of securities involved under which both certificated and uncertificated securities are regularly issued to the category of owners, which includes the person in whose name the new security is to be registered.

(2) Upon surrender of a certificated security with all necessary endorsements and presentation of a written request by the person surrendering the security, the issuer, if he has no duty as to adverse claims or has discharged the duty (RCW 62A.8-403), shall issue to the person or a person designated by him an equivalent uncertificated security subject to all liens, restrictions, and claims that were noted on the certificated security.

(3) Upon receipt of a transfer instruction originated by an appropriate person who so requests, the issuer of an uncertificated security shall cancel the uncertificated security and issue an equivalent certificated security on which must be noted conspicuously any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under RCW

62A.8-403(4)) to which the uncertificated security was subject. The certificated security shall be registered in the name of and delivered to:

(a) the registered owner, if the uncertificated security was not subject to a registered pledge; or

(b) the registered pledgee, if the uncertificated security was subject to a registered pledge.

NEW SECTION. Sec. 44. A new section is added to Article 8 of Title 62A RCW to read as follows:

STATEMENTS OF UNCERTIFICATED SECURITIES. (1) Within 2 business days after the transfer of an uncertificated security has been registered, the issuer shall send to the new registered owner and, if the security has been transferred subject to a registered pledge, to the registered pledgee a written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the number of shares or units transferred;

(c) the name and address and any taxpayer identification number of the new registered owner and, if the security has been transferred subject to a registered pledge, the name and address and any taxpayer identification number of the registered pledgee;

(d) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under RCW 62A.8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) the date the transfer was registered.

(2) Within 2 business days after the pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the registered pledgee a written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the number of shares or units pledged;

(c) the name and address and any taxpayer identification number of the registered owner and the registered pledgee;

(d) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under RCW 62A.8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) the date the pledge was registered.

(3) Within 2 business days after the release from pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the pledgee whose interest was released a written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the number of shares or units released from pledge;

(c) the name and address and any taxpayer identification number of the registered owner and the pledgee whose interest was released;

(d) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under RCW 62A.8-403(4)) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions or adverse claims; and

(e) the date the release was registered.

(4) An "initial transaction statement" is the statement sent to:

(a) the new registered owner and, if applicable, to the registered pledgee pursuant to subsection (1);

(b) the registered pledgee pursuant to subsection (2); or

(c) the registered owner pursuant to subsection (3).

Each initial transaction statement shall be signed by or on behalf of the issuer and must be identified as "Initial Transaction Statement".

(5) Within 2 business days after the transfer of an uncertificated security has been registered, the issuer shall send to the former registered owner and the former registered pledgee, if any, a written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the number of shares or units transferred;

(c) the name and address and any taxpayer identification number of the former registered owner and of any former registered pledgee; and

(d) the date the transfer was registered.

(6) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered owner, the issuer shall send to the registered owner of each uncertificated security a dated written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the name and address and any taxpayer identification number of the registered owner;

(c) the number of shares or units of the uncertificated security registered in the name of the registered owner on the date of the statement;

(d) the name and address and any taxpayer identification number of any registered pledgee and the number of shares or units subject to the pledge; and

(e) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under RCW 62A.8-403(4)) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(7) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered pledgee, the issuer shall send to the registered pledgee of each uncertificated security a dated written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the name and address and any taxpayer identification number of the registered owner;

(c) the name and address and any taxpayer identification number of the registered pledgee;

(d) the number of shares or units subject to the pledge; and

(e) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under RCW 62A.8-403(4)) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(8) If the issuer sends the statements described in subsections (6) and (7) at periodic intervals no less frequent than quarterly, the issuer is not obliged to send additional statements upon request unless the owner or pledgee requesting them pays to the issuer the reasonable cost of furnishing them.

(9) Each statement sent pursuant to this section must bear a conspicuous legend reading substantially as follows: "This statement is merely a record of the rights of the addressee as of the time of its issuance. Delivery of this statement, of itself, confers no rights on the recipient. This statement is neither a negotiable instrument nor a security."

Sec. 45. Section 9-103, chapter 157, Laws of 1965 ex. sess. as amended by section 7, chapter 41, Laws of 1981 and RCW 62A.9-103 are each amended to read as follows:

PERFECTION OF SECURITY INTERESTS IN MULTIPLE STATE TRANSACTIONS. (1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the

law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until thirty days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by Part 3 of this Article to perfect the security interest,

(i) if the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) if the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii) for the purpose of priority over a buyer of consumer goods (subsection (2) of RCW 62A.9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subsection (1).

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest

or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods.

(a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper.

The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals.

Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) Uncertificated securities.

The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the perfection and the effect of perfection or non-perfection of a security interest in uncertificated securities.

Sec. 46. Section 9-105, chapter 157, Laws of 1965 ex. sess. as amended by section 9, chapter 41, Laws of 1981 and RCW 62A.9-105 are each amended to read as follows:

DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this Article unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of Article 1 (RCW 62A.1-201), and a receipt of the kind described in subsection (2) of RCW 62A.7-201;

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (RCW 62A.9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

(i) "Instrument" means a negotiable instrument (defined in RCW 62A.3-104), or a certificated security (defined in RCW 62A.8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "Security agreement" means an agreement which creates or provides for a security interest;

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Account". RCW 62A.9-106.

"Attach". RCW 62A.9-203.

"Construction mortgage". RCW 62A.9-313(1).

"Consumer goods". RCW 62A.9-109(1).

"Equipment". RCW 62A.9-109(2).

"Farm products". RCW 62A.9-109(3).

"Fixture". RCW 62A.9-313.

"Fixture filing". RCW 62A.9-313.

"General intangibles". RCW 62A.9-106.

"Inventory". RCW 62A.9-109(4).

"Lien creditor". RCW 62A.9-301(3).

"Proceeds". RCW 62A.9-306(1).

"Purchase money security interest". RCW 62A.9-107.

"United States". RCW 62A.9-103.

(3) The following definitions in other Articles apply to this Article:

"Check". RCW 62A.3-104.

"Contract for sale". RCW 62A.2-106.

"Holder in due course". RCW 62A.3-302.

"Note". RCW 62A.3-104.

"Sale". RCW 62A.2-106.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 47. Section 9-203, chapter 157, Laws of 1965 ex. sess. as last amended by section 12, chapter 412, Laws of 1985 and RCW 62A.9-203 are each amended to read as follows:

(1) Subject to the provisions of RCW 62A.4-208 on the security interest of a collecting bank, RCW 62A.8-321 on security interests in securities and RCW 62A.9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; (~~and~~)

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by RCW 62A.9-306.

(4) A transaction, although subject to this Article, is also subject to chapters 31.04, 31.08, 31.12, 31.16, 31.20, and 31.24 RCW, and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

Sec. 48. Section 9-302, chapter 157, Laws of 1965 ex. sess. as last amended by section 3, chapter 258, Laws of 1985 and RCW 62A.9-302 are each amended to read as follows:

(1) A financing statement must be filed to perfect all security interest((s)) except the following:

(a) a security interest in collateral in possession of the secured party under RCW 62A.9-305;

(b) a security interest temporarily perfected in instruments or documents without delivery under RCW 62A.9-304 or in proceeds for a ten day period under RCW 62A.9-306;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered and other property subject to subsection (3) of this section; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in RCW 62A.9-313;

(e) a security interest of a collecting bank (RCW 62A.4-208) or in securities (RCW 62A.8-321) or arising under the Article on Sales (RCW 62A.9-113) or covered in subsection (3) of this section;

(f) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this Article is not necessary or effective to perfect a security interest in property subject to

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this Article for filing of the security interest; or

(b) the following statute of this state: RCW 46.12.095 or 88.02.070; but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article (Part 4) apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of RCW 62A.9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this Article, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in RCW 62A.9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by

the provisions of the statute or treaty; in other respects the security interest is subject to this Article.

(5) Part 4 of this Article does not apply to a security interest in property of any description created by a deed of trust or mortgage made by any corporation primarily engaged in the railroad or street railway business, the furnishing of telephone or telegraph service, the transmission of oil, gas or petroleum products by pipe line, or the production, transmission or distribution of electricity, steam, gas or water, but such security interest may be perfected under this Article by filing such deed of trust or mortgage with the department of licensing. When so filed, such instrument shall remain effective until terminated, without the need for filing a continuation statement. Assignments and releases of such instruments may also be filed with the department of licensing. The director of licensing shall be a filing officer for the foregoing purposes, and the uniform fee for filing, indexing, and furnishing filing data pursuant to this subsection shall be five dollars.

Sec. 49. Section 9-304, chapter 157, Laws of 1965 ex. sess. as amended by section 17, chapter 41, Laws of 1981 and RCW 62A.9-304 are each amended to read as follows:

PERFECTION OF SECURITY INTEREST IN INSTRUMENTS, DOCUMENTS, AND GOODS COVERED BY DOCUMENTS; PERFECTION BY PERMISSIVE FILING; TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION. (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than certificated securities or instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of RCW 62A.9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments (other than certificated securities) or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument (other than a certificated security), a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange but priority between conflicting security interests in the goods is subject to subsection (3) of RCW 62A.9-312; or

(b) delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer.

(6) After the twenty-one day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article.

Sec. 50. Section 9-305, chapter 157, Laws of 1965 ex. sess. as amended by section 18, chapter 41, Laws of 1981 and RCW 62A.9-305 are each amended to read as follows:

WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING. A security interest in letters of credit and advices of credit (subsection (2)(a) of RCW 62A.5-116), goods, instruments (other than certificated securities), money, negotiable documents, or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Sec. 51. Section 9-309, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-309 are each amended to read as follows:

PROTECTION OF PURCHASERS OF INSTRUMENTS (~~AND~~), DOCUMENTS AND SECURITIES. Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (RCW 62A.3-302) or a holder to whom a negotiable document of title has been duly negotiated (RCW 62A.7-501) or a bona fide purchaser of a security (RCW (~~62A.8-301~~) 62A.8-302) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers.

Sec. 52. Section 9-312, chapter 157, Laws of 1965 ex. sess. as last amended by section 3, chapter 186, Laws of 1982 and RCW 62A.9-312 are each amended to read as follows:

PRIORITIES AMONG CONFLICTING SECURITY INTERESTS IN THE SAME COLLATERAL. (1) The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: RCW 62A.4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; RCW 62A.9-103 on security interests related to other jurisdictions; RCW 62A.9-114 on consignments.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of RCW 62A.9-304); and

(c) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within twenty days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for

the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing ((or)), the taking of possession, or under RCW 62A.8-321 on securities, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Sec. 53. Section 1-201, chapter 157, Laws of 1965 ex. sess. as amended by section 2, chapter 41, Laws of 1981 and RCW 62A.1-201 are each amended to read as follows:

GENERAL DEFINITIONS. Subject to additional definitions contained in the subsequent Articles of this Title which are applicable to specific Articles or Parts thereof, and unless the context otherwise requires, in this Title:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Title (RCW 62A.1-205 and RCW 62A.2-208). Whether an agreement has legal consequences is determined by the provisions of this Title, if applicable; otherwise by the law of contracts (RCW 62A.1-103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document

serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this Title and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this Title to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or ((an)) a certificated investment security drawn, issued, or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when (a) he has actual knowledge of it; or

(b) he has received a notice or notification of it; or

(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this Title.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) it comes to his attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and

in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within this Title.

(30) "Person" includes an individual or an organization (See RCW 62A.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or re-issue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (RCW 62A.2-401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under RCW 62A.2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (RCW 62A.2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease

one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (RCW 62A.3-303, RCW 62A.4-208 and RCW 62A.4-209) a person gives "value" for rights if he acquires them

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) as security for or in total or partial satisfaction of a preexisting claim; or

(c) by accepting delivery pursuant to a pre-existing contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

Sec. 54. Section 5-114, chapter 157, Laws of 1965 ex. sess. and RCW 62A.5-114 are each amended to read as follows:

ISSUER'S DUTY AND PRIVILEGE TO HONOR; RIGHT TO REIMBURSEMENT. (1) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is

not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (RCW 62A.7-507) or of a certificated security (RCW 62A.8-306) or is forged or fraudulent or there is fraud in the transaction:

(a) the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (RCW 62A.3-302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (RCW 62A.7-502) or a bona fide purchaser of a certificated security (RCW 62A.8-302); and

(b) in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

(4) When a credit provides for payment by the issuer on receipt of notice that the required documents are in the possession of a correspondent or other agent of the issuer

(a) any payment made on receipt of such notice is conditional; and

(b) the issuer may reject documents which do not comply with the credit if it does so within three banking days following its receipt of the documents; and

(c) in the event of such rejection, the issuer is entitled by charge back or otherwise to return of the payment made.

(5) In the case covered by subsection (4) failure to reject documents within the time specified in sub-paragraph (b) constitutes acceptance of the documents and makes the payment final in favor of the beneficiary.

Sec. 55. Section 22, chapter 53, Laws of 1965 as last amended by section 3, chapter 290, Laws of 1985 and RCW 23A.08.190 are each amended to read as follows:

~~((The shares of a corporation shall be represented by certificates signed by the president or a vice president and the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice president and~~

~~the secretary or assistant secretary upon a certificate may be facsimiles if the certificate is manually signed on behalf of a transfer agent, or registered by a registrar, other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.~~

~~Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued and, if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series:))~~ (1) Shares may but need not be represented by certificates. Unless this title or another statute expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates.

~~(2) At a minimum each share certificate ((representing shares shall) must state ((upon the) on its face ((thereof):~~

~~((1) That the corporation))~~ (a) The name of the issuing corporation and that it is organized under the laws of this state(-);

~~((2))~~ (b) The name of the person to whom issued(-);

~~((3))~~ (c) The number and class of shares, and the designation of the series, if any, which such certificate represents.

~~((No certificate shall be issued for any share until the consideration established for its issuance has been paid:))~~ (3) If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series and the board's authority to determine variations for future series must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

(4) Each share certificate (a) must be signed either manually or in facsimile by two officers designated in the bylaws or by the board of directors and (b) may bear the corporate seal or its facsimile.

(5) If the person who signed either manually or in facsimile a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

NEW SECTION. Sec. 56. A new section is added to chapter 23A.08 RCW to read as follows:

(1) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of any of its classes or series of shares without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the corporation.

(2) Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a complete written statement of the information required on certificates by RCW 23A.08.190.

Sec. 57. Section 23, chapter 53, Laws of 1965 as last amended by section 11, chapter 75, Laws of 1984 and RCW 23A.08.200 are each amended to read as follows:

A corporation may (1) issue fractions of a share, (2) arrange for the disposition of fractional interests by those entitled thereto, (3) pay in money the fair value of fractions of a share as of the time when those entitled to receive such shares are determined, or (4) issue scrip in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip aggregating a full share. ~~((A certificate for a fractional share shall, but scrip shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the corporation in the event of liquidation.))~~ The holder of a fractional share is entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the corporation upon liquidation. The holder of scrip is not entitled to any of these rights unless the scrip provides for them. The board of directors may cause such scrip to be issued subject to the condition that it shall become void if not exchanged for ~~((certificates representing))~~ full shares before a specified date, or subject to the condition that the shares for which such scrip is exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of such scrip, or subject to any other conditions which the board of directors may deem advisable.

Sec. 58. Section 34, chapter 53, Laws of 1965 as amended by section 23, chapter 154, Laws of 1973 1st ex. sess. and RCW 23A.08.310 are each amended to read as follows:

~~((Certificates of stock and the))~~ Shares ~~((represented thereby standing))~~ of record in the name of a married person may be transferred by such person, such person's agent or attorney, without the signature of such person's spouse. All dividends payable upon any shares of a corporation standing in the name of a married person, shall be paid to such married person, such person's agent or attorney, in the same manner as if such person were unmarried, and it shall not be necessary for the other spouse to join in a

receipt therefor; and any proxy or power given by a married person, touching any shares of any corporation standing in such person's name, shall be valid and binding without the signature of the other spouse.

Sec. 59. Section 35, chapter 53, Laws of 1965 and RCW 23A.08.320 are each amended to read as follows:

Whenever (~~certificates for~~) shares or other securities issued by domestic or foreign corporations are or have been issued or transferred to two or more persons in joint tenancy form on the books or records of the corporation, it is presumed in favor of the corporation, its registrar and its transfer agent that the shares or other securities are owned by such persons in joint tenancy and not otherwise. A domestic or foreign corporation or its registrar or transfer agent is not liable for transferring or causing to be transferred on the books of the corporation to or pursuant to the direction of the surviving joint tenant or tenants any share or shares or other securities theretofore issued by the corporation to two or more persons in joint tenancy form on the books or records of the corporation, unless the transfer was made with actual knowledge by the corporation or by its registrar or transfer agent of the existence of any understanding, agreement, condition, or evidence that the shares or securities were held other than in joint tenancy, or of the invalidity of the joint tenancy or a breach of trust by the joint tenants.

Sec. 60. Section 36, chapter 53, Laws of 1965 as amended by section 3, chapter 99, Laws of 1980 and RCW 23A.08.330 are each amended to read as follows:

Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office, and by transferring their shares to such trustee or trustees for the purposes of the agreement. (~~The~~) Certificates of shares or uncertificated shares so transferred shall be surrendered and canceled, and new certificates (~~therefor~~) or uncertificated shares issued to such (~~person or persons, as such~~) trustee or trustees (~~in which new certificates, it shall appear that they are issued pursuant to said~~) to whom it appears the shares, if any, are issued under the agreement. In the entry of transfer on the books of the corporation it shall also be noted that the transfer is made pursuant to said agreement. The trustee or trustees (~~shall~~) may execute and deliver to the transferors voting trust certificates. Such voting trust certificates shall be transferable in the same manner and with the same effect as certificates of stock under the laws of this state.

The counterpart of the voting trust agreement deposited with the corporation shall be subject to the same right of examination by a shareholder

of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person or by agent or attorney, at any reasonable time for any proper purpose.

At any time within six months before the expiration of such voting trust agreement as originally fixed or extended under this paragraph, one or more holders of voting trust certificates may, by agreement in writing, extend the duration of such voting trust agreement, nominating the same or substitute trustee or trustees, for an additional period not exceeding ten years. Such extension agreement shall not affect the rights or obligations of persons not parties thereto and shall in every respect comply with and be subject to all the provisions of this title applicable to the original voting trust agreement.

Agreements among shareholders regarding the voting of their shares shall be valid and enforceable in accordance with their terms. Such agreements shall not be subject to the provisions of this section regarding voting trusts.

Sec. 61. Section 83, chapter 53, Laws of 1965 as last amended by section 14, chapter 290, Laws of 1985 and RCW 23A.24.040 are each amended to read as follows:

Any shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action. If such proposed corporate action be approved by the required vote and such shareholder shall not have voted in favor thereof, such shareholder may, within ten days after the date on which the vote was taken, or if a corporation is to be merged without a vote of its shareholders into another corporation, any other shareholders may, within fifteen days after the plan of such merger shall have been mailed to such shareholders, make written demand on the corporation, or, in the case of a merger or consolidation, on the surviving or new corporation, domestic or foreign, for payment of the fair value of such shareholder's shares, and, if such proposed corporate action is effected, such corporation shall pay to such shareholder, upon surrender of the certificate or certificates representing ~~((such))~~ certificated shares or upon imposition of restrictions on transfer of uncertificated shares, the fair value thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding any appreciation or depreciation in anticipation of such corporate action. Any shareholder failing to make demand within the applicable ten day or fifteen day period shall be bound by the terms of the proposed corporate action. Any shareholder making such demand shall thereafter be entitled only to payment as in this section provided and shall not be entitled to vote or to exercise any other rights of a shareholder.

No such demand shall be withdrawn unless the corporation shall consent thereto. The right of such shareholder to be paid the fair value of his shares shall cease and his status as a shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim, if:

- (1) Such demand shall be withdrawn upon consent; or
- (2) The proposed corporate action shall be abandoned or rescinded or the shareholders shall revoke the authority to effect such action; or
- (3) In the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger; or
- (4) No demand or petition for the determination of fair value by a court shall have been made or filed within the time provided by this section; or
- (5) A court of competent jurisdiction shall determine that such shareholder is not entitled to the relief provided by this section.

Within ten days after such corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as herein provided, and shall make a written offer to each such shareholder to pay for such shares at a specified price deemed by such corporation to be the fair value thereof. Such notice and offer shall be accompanied by a balance sheet of the corporation the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve months prior to the making of such offer, and a profit and loss statement of such corporation for the twelve months' period ended on the date of such balance sheet.

If within thirty days after the date on which such corporate action was effected the fair value of such shares is agreed upon between any such dissenting shareholder and the corporation, payment therefor shall be made within ninety days after the date on which such corporate action was effected, upon surrender of the certificate or certificates representing ((such)) certificated shares or upon imposition of restrictions on transfer of uncertificated shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in such shares.

If within such period of thirty days a dissenting shareholder and the corporation do not so agree, then the corporation, within thirty days after receipt of written demand from any dissenting shareholder given within sixty days after the date on which such corporate action was effected, shall, or at its election at any time within such period of sixty days may, file a petition in any court of competent jurisdiction in the county in this state where the registered office of the corporation is located praying that the fair value

of such shares be found and determined. If, in the case of a merger or consolidation, the surviving or new corporation is a foreign corporation without a registered office in this state, such petition shall be filed in the county where the registered office of the domestic corporation was last located. If the corporation shall fail to institute the proceeding as herein provided, any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, shall be made parties to the proceeding as an action against their shares quasi in rem. A copy of the petition shall be served on each dissenting shareholder who is a resident of this state and shall be served by registered or certified mail on each dissenting shareholder who is a nonresident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and exclusive. All shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for the amount of the fair value of their shares. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof. The judgment shall be payable only upon and concurrently with the surrender to the corporation of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares.

The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such costs and expenses may be apportioned and assessed as the court may deem equitable against any or all of the dissenting shareholders who are parties to the proceeding to whom the corporation shall have made an offer to pay for the shares if the court shall find that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall exclude the fees and expenses of counsel for and experts employed by any party; but if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may determine to be reasonable compensation to any expert or experts employed by the shareholder in the proceeding.

Within twenty days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his certificated shares to the corporation for notation thereon

that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct. If shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear similar notation, together with the name of the original dissenting holder of such shares, and a transferee of such shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting shareholder had after making demand for payment of the fair value thereof.

Passed the House February 13, 1986.

Passed the Senate February 28, 1986.

Approved by the Governor March 10, 1986.

Filed in Office of Secretary of State March 10, 1986.

CHAPTER 36

[Substitute House Bill No. 1480]

VENDING MACHINES—SALES TAX

AN ACT Relating to the collection of the sales tax on sales made through vending machines; amending RCW 82.08.050 and 82.08.080; and declaring an emergency.

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

Sec. 1. Section 82.08.050, chapter 15, Laws of 1961 as last amended by section 1, chapter 38, Laws of 1985 and RCW 82.08.050 are each amended to read as follows:

The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department pursuant to the provisions of RCW 82.08.060. The tax required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department, and any seller who appropriates or converts the tax collected to his own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter shall be guilty of a gross misdemeanor.

In case any seller fails to collect the tax herein imposed 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 his own acts or the result of acts or conditions beyond his control, he shall, nevertheless, be personally liable to the state for the amount of the tax.

The amount of tax, until paid by the buyer to the seller or to the department, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct

or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor. The tax required by this chapter to be collected by the seller shall be stated separately from the selling price in any sales invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the selling price or collected separately from the buyer. For purposes of determining the tax due from the buyer to the seller and from the seller to the department it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price.

Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the department; and all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, shall apply in addition; and, for the sole purpose of applying the various provisions of chapter 82.32 RCW, the fifteenth day of the month following the tax period in which the purchase was made shall be considered as the due date of the tax.

Sec. 2. Section 82.08.080, chapter 15, Laws of 1961 as last amended by section 48, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.08.080 are each amended to read as follows:

The department of revenue may authorize a seller to pay the tax levied under this chapter upon sales (~~made through vending machines and similar devices or where sales are~~) made under conditions of business such as to render impracticable the collection of the tax as a separate item and waive collection of the tax from the customer. Where sales are made by receipt of a coin or coins dropped into a receptacle that results in delivery of the merchandise in single purchases of smaller value than the minimum sale upon which a one cent tax may be collected from the purchaser, according to the schedule provided by the department under authority of RCW 82.08.060, and where the design of the sales device is such that multiple sales of items are not possible or cannot be detected so as practically to assess a tax, in such a case the selling price for the purposes of the tax imposed under RCW 82.08.020 shall be sixty percent of the gross receipts of the vending machine through which such sales are made. No such authority shall be granted except upon application to the department and unless the department, after hearing, finds that the conditions of the applicant's business are such as to render impracticable the collection of the tax in the manner otherwise provided. The department, by regulation, may provide that the

applicant, under this section, furnish a proper bond sufficient to secure the payment of the tax.

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

Passed the House February 11, 1986.
Passed the Senate February 27, 1986.
Approved by the Governor March 10, 1986.
Filed in Office of Secretary of State March 10, 1986.

CHAPTER 37

[Substitute House Bill No. 37]

USED OIL RECYCLING—ABOVE-GROUND TANKS

AN ACT Relating to used oil recycling; and adding a new section to chapter 19.114 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 19.114 RCW to read as follows:

By January 1, 1987, the state fire protection board, in cooperation with the department of ecology, shall develop a state-wide standard for the placement of above-ground tanks to collect used oil from private individuals for recycling purposes.

Passed the House January 15, 1986.
Passed the Senate February 27, 1986.
Approved by the Governor March 10, 1986.
Filed in Office of Secretary of State March 10, 1986.

CHAPTER 38

[House Bill No. 1058]

EMERGENCY COMMUNICATIONS—RECORDING

AN ACT Relating to the recording of emergency communications; and amending RCW 9.73.030 and 9.73.090.

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

Sec. 1. Section 1, chapter 93, Laws of 1967 ex. sess. as amended by section 1, chapter 363, Laws of 1977 ex. sess. and RCW 9.73.030 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, it shall be unlawful for any individual, partnership, corporation, association, or the state of Washington, its agencies, and political subdivisions to intercept, or record any:

(a) Private communication transmitted by telephone, telegraph, radio, or other device between two or more individuals between points within or without the state by any device electronic or otherwise designed to record and/or transmit said communication regardless how such device is powered or actuated, without first obtaining the consent of all the participants in the communication;

(b) Private conversation, by any device electronic or otherwise designed to record or transmit such conversation regardless how the device is powered or actuated without first obtaining the consent of all the persons engaged in the conversation.

(2) Notwithstanding (~~the provisions of~~) subsection (1) of this section, wire communications or conversations (a) of an emergency nature, such as the reporting of a fire, medical emergency, crime, or (~~other~~) disaster, or (b) which convey threats of extortion, blackmail, bodily harm, or other unlawful requests or demands, or (c) which occur anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues, may be recorded with the consent of one party to the conversation.

(3) Where consent by all parties is needed pursuant to this chapter, consent shall be considered obtained whenever one party has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that such communication or conversation is about to be recorded or transmitted: PROVIDED, That if the conversation is to be recorded that said announcement shall also be recorded.

(4) An employee of any regularly published newspaper, magazine, wire service, radio station, or television station acting in the course of bona fide news gathering duties on a full time or contractual or part time basis, shall be deemed to have consent to record and divulge communications or conversations otherwise prohibited by this chapter if the consent is expressly given or if the recording or transmitting device is readily apparent or obvious to the speakers. Withdrawal of the consent after the communication has been made shall not prohibit any such employee of a newspaper, magazine, wire service, or radio or television station from divulging the communication or conversation.

Sec. 2. Section 1, chapter 48, Laws of 1970 ex. sess. as amended by section 3, chapter 363, Laws of 1977 ex. sess. and RCW 9.73.090 are each amended to read as follows:

(1) The provisions of RCW 9.73.030 through 9.73.080 shall not apply to police (~~and~~), fire, emergency medical service, emergency communication center, and poison center personnel in the following instances:

(a) Recording incoming telephone calls to police and fire stations, licensed emergency medical service providers, emergency communication centers, and poison centers;

(b) Video and/or sound recordings may be made of arrested persons by police officers responsible for making arrests or holding persons in custody

before their first appearance in court. Such video and/or sound recordings shall conform strictly to the following:

(i) The arrested person shall be informed that such recording is being made and the statement so informing him shall be included in the recording;

(ii) The recording shall commence with an indication of the time of the beginning thereof and terminate with an indication of the time thereof;

(iii) At the commencement of the recording the arrested person shall be fully informed of his constitutional rights, and such statements informing him shall be included in the recording;

(iv) The recordings shall only be used for valid police or court activities.

(2) It shall not be unlawful for a law enforcement officer acting in the performance of the officer's official duties to intercept, record, or disclose an oral communication or conversation where the officer is a party to the communication or conversation or one of the parties to the communication or conversation has given prior consent to the interception, recording, or disclosure: PROVIDED, That prior to the interception, transmission, or recording the officer shall obtain written or telephonic authorization from a judge or magistrate, who shall approve the interception, recording, or disclosure of communications or conversations with a nonconsenting party for a reasonable and specified period of time, if there is probable cause to believe that the nonconsenting party has committed, is engaged in, or is about to commit a felony: PROVIDED HOWEVER, That if such authorization is given by telephone the authorization and officer's statement justifying such authorization must be electronically recorded by the judge or magistrate on a recording device in the custody of the judge or magistrate at the time transmitted and the recording shall be retained in the court records and reduced to writing as soon as possible thereafter.

Any recording or interception of a communication or conversation incident to a lawfully recorded or intercepted communication or conversation pursuant to this subsection shall be lawful and may be divulged.

All recordings of communications or conversations made pursuant to this subsection shall be retained for as long as any crime may be charged based on the events or communications or conversations recorded.

(3) Communications or conversations authorized to be intercepted, recorded, or disclosed by this section shall not be inadmissible under RCW 9.73.050.

(4) Authorizations issued under this section shall be effective for not more than seven days, after which period the issuing authority may upon

application of the officer who secured the original authorization renew or continue the authorization for an additional period not to exceed seven days.

Passed the House February 13, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 39

[Engrossed House Bill No. 1353]

IRRIGATION DISTRICTS—PLATS

AN ACT Relating to plats within irrigation districts; and amending RCW 58.17.310.

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

Sec. 1. Section 2, chapter 150, Laws of 1973 as amended by section 1, chapter 160, Laws of 1985 and RCW 58.17.310 are each amended to read as follows:

In addition to any other requirements imposed by the provisions of this chapter, the legislative authority of any city, town, or county shall not approve a short plat or final plat, as defined in RCW 58.17.020, for any subdivision, short subdivision, lot, tract, parcel, or site which lies in whole or in part in an irrigation district organized pursuant to chapter 87.03 RCW unless there has been provided an irrigation water right of way for each parcel of land in such district (~~and~~). In addition, if the subdivision, short subdivision, lot, tract, parcel, or site lies within land within the district classified as irrigable, ((it contains completed irrigation water distribution facilities. Facilities shall be installed in the same manner and time as other utilities according to standards and ordinances of the local jurisdiction. The irrigation district shall provide the local legislative authority with suggested specifications for approved irrigation facilities. The irrigation district shall also suggest to the local legislative authority or appropriate planning agency the irrigation facilities that should be required as a condition for approving such a short plat or plat)) completed irrigation water distribution facilities for such land may be required by the irrigation district by resolution, bylaw, or rule of general applicability as a condition for approval of the short plat or final plat by the legislative authority of the city, town, or county. Rights of way shall be evidenced by the respective plats submitted for final approval to the appropriate legislative authority. Compliance with the requirements of this section together with all other applicable provisions of this chapter

shall be a prerequisite, within the expressed purpose of this chapter, to any sale, lease, or development of land in this state.

Passed the House January 21, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 40

[Substitute House Bill No. 1460]

FLOWER SHOPS—WINE DELIVERY—CLASS P LIQUOR LICENSE

AN ACT Relating to class P licenses; and amending RCW 66.24.550.

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

Sec. 1. Section 10, chapter 85, Laws of 1982 and RCW 66.24.550 are each amended to read as follows:

There shall be a ~~((special-gift))~~ wine ~~((service))~~ retailer's license to be designated as class P to solicit, take orders for, sell and deliver wine in bottles and original packages to persons other than the person placing the order. A class P license may be issued only to a business solely engaged in the delivery of gifts at retail which holds no other class of license under this title or to a person in the business of selling flowers or floral arrangements at retail. No minimum wine inventory requirement shall apply to holders of class P licenses. The fee for this license is seventy-five dollars per year. Delivery of wine under a class P license shall be made in accordance with all applicable provisions of this title and the rules of the board, and no wine so delivered shall be opered on any premises licensed under this title. A class P license does not authorize door-to-door solicitation of gift wine delivery orders ~~((or the delivery of more than one bottle of wine to the same address in any twenty-four hour period))~~. Deliveries of wine under a class P license shall be made only in conjunction with gifts or flowers.

Passed the House February 11, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 41

[Substitute House Bill No. 1385]

WATER AND SEWER DISTRICTS—COMMISSIONER ELECTIONS

AN ACT Relating to water and sewer district commissioner elections; amending RCW 56.12.030; and adding a new section to chapter 57.12 RCW.

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

Sec. 1. Section 8, chapter 210, Laws of 1941 as last amended by section 3, chapter 141, Laws of 1985 and RCW 56.12.030 are each amended to read as follows:

(1) Nominations for the first board of commissioners to be elected at the election for the formation of the sewer district shall be by petition of fifty qualified electors or ten percent of the qualified electors of the district, whichever is the smaller. The petition shall be filed in the auditor's office of the county in which the district is located at least thirty days before the election. Thereafter candidates for the office of sewer commissioner shall file declarations of candidacy and their election shall be conducted as provided by the general elections laws. A vacancy or vacancies shall be filled by appointment by the remaining commissioner or commissioners until the next regular election for commissioners: PROVIDED, That if there are two vacancies on the board, one vacancy shall be filled by appointment by the remaining commissioner and the one remaining vacancy shall be filled by appointment by the then two commissioners and said appointed commissioners shall serve until the next regular election for commissioners. If the vacancy or vacancies remain unfilled within six months of its or their occurrence, the county legislative authority in which the district is located shall make the necessary appointment or appointments. If there is a vacancy of the entire board a new board may be appointed by the board of county commissioners. Any person residing in the district who is at the time of election a qualified voter may vote at any election held in the sewer district.

(2) Subsection (1) of this section notwithstanding, the board of commissioners may provide by majority vote that subsequent commissioners be elected from commissioner districts within the district. If the board exercises this option, it shall divide the district into three commissioner districts of approximately equal population following current precinct and district boundaries. Thereafter, candidates shall be nominated and one candidate shall be elected from each commissioner district by the electors of the commissioner district.

(3) All expense of elections for the formation or reorganization of a sewer district shall be paid by the county in which the election is held and the expenditure is hereby declared to be for a county purpose, and the money paid for that purpose shall be repaid to the county by the district if formed or reorganized.

NEW SECTION. Sec. 2. A new section is added to chapter 57.12 RCW to read as follows:

Notwithstanding RCW 57.12.020 and 57.12.030, the board of commissioners may provide by majority vote that subsequent commissioners be elected from commissioner districts within the district. If the board exercises this option, it shall divide the district into three commissioner districts of approximately equal population following current precinct and district boundaries. Thereafter, candidates shall be nominated and one candidate

shall be elected from each commissioner district by the electors of the commissioner district.

Passed the House February 14, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 42

[Engrossed House Bill No. 1350]

COLLEGES AND UNIVERSITIES—ANNUAL TUITION FEE ADJUSTMENT

AN ACT Relating to tuition fees; and amending RCW 28B.15.067.

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

Sec. 1. Section 2, chapter 257, Laws of 1981 as last amended by section 15, chapter 390, Laws of 1985 and RCW 28B.15.067 are each amended to read as follows:

Tuition fees shall be established and adjusted (~~biennially~~) annually under the provisions of this chapter beginning with the (~~1983-84~~) 1987-88 academic year. Such fees shall be identical, subject to other provisions of this chapter, for students enrolled at either state university, for students enrolled at the regional universities and The Evergreen State College and for students enrolled at any community college. Tuition fees shall reflect the undergraduate and graduate educational costs of the state universities, the regional universities and the community colleges, respectively, in the amounts (~~herein~~) prescribed in this chapter. The change from the biennial tuition fee adjustment to an annual tuition fee adjustment shall not reduce the amount of revenue to the state general fund.

Passed the House February 6, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 43

[Substituted House Bill No. 1496]

HORSE RACING—RACE PROCEEDS ALLOCATION

AN ACT Relating to horse racing; and amending RCW 67.16.175.

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

Sec. 1. Section 1, chapter 135, Laws of 1981 as amended by section 10, chapter 146, Laws of 1985 and RCW 67.16.175 are each amended to read as follows:

~~(1)((a) Of the daily gross receipts of all parimutuel machines from wagers on exotic races two and one-half percent on races requiring two selections and three and one-half percent on races requiring three or more selections shall be retained and be forwarded to the state treasurer daily and deposited in the general fund of the state))~~ Daily gross receipts of all parimutuel machines from wagers on exotic races shall be distributed according to this section:

(a) In addition to the amounts set forth in RCW 67.16.105, an additional two and five-tenths percent of gross receipts on races with two or more selections and three and five-tenths percent of gross receipts on races with three or more selections shall be paid to the commission. The commission shall retain twenty-two percent of the additional percentages from exotic races and shall forward the balance to the state treasurer daily for deposit in the general fund.

(b) In addition to the amounts authorized to be retained in RCW 67.16.170, race meets may retain an additional three percent of the daily gross receipts of all parimutuel machines from wagers on exotic races requiring two selections to be used as provided in subsection (2) of this section.

(c) In addition to the amounts authorized to be retained in RCW 67.16.170, race meets may retain an additional six percent of the daily gross receipts of all parimutuel machines from wagers on exotic races requiring three or more selections to be used as provided in subsection (2) of this section.

(2) Of the amounts retained in subsection (1) (b) and (c) of this section, one percent shall be used for Washington-bred breeder awards, not to exceed twenty percent of the winner's share of the purse.

(3) Any portion of the remaining moneys retained in subsection (1) (b) and (c) of this section shall be shared equally by the race track and participating horsemen. The amount shared by participating horsemen shall be in addition to and shall not supplant the customary purse structure between race tracks and participating horsemen.

(4) As used in this section, "exotic races" means any multiple wager. Exotic races are subject to approval of the commission.

Passed the House February 15, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 44

[House Bill No. 1517]

ESTATE TAXATION

AN ACT Relating to estate taxation; and amending RCW 83.100.050 and 83.100.080.

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

Sec. 1. Section 83.100.050, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.050 are each amended to read as follows:

(1) The personal representative of every estate subject to the tax imposed by this chapter who is required by the laws of the United States to file a federal estate tax return shall file with the department on or before the date the federal estate tax return is required to be filed, including any extension of time for filing the federal estate tax return:

- (a) A report for the taxes due under this chapter; and
- (b) A true copy of the federal estate tax return.

(2) If the personal representative has obtained an extension of time for filing the federal return, the filing required by subsection (1) of this section shall be similarly extended until the end of the time period granted in the extension of time for the federal return. A true copy of the extension shall be filed with the department within thirty days of issuance.

(3) No Washington report need be filed if the estate is not subject to the tax imposed by this chapter.

~~((4) If the estate is not subject to the tax imposed by this chapter, the personal representative may apply to the department for the automatic issuance of a release of nonliability. The release, when issued, shall indicate it has been determined that the estate is not subject to the tax and that the estate and the personal representative are free of any claim by the state for taxes owed under this chapter.))~~

Sec. 2. Section 83.100.080, chapter 7, Laws of 1981 2nd ex. sess. and RCW 83.100.080 are each amended to read as follows:

(1) The department shall issue an automatic release to the personal representative when((:

~~(a) No taxes imposed by this chapter are due and upon the receipt of a request for a release of nonliability, if the release includes the sworn statement of the personal representative that in fact no taxes are due; or~~

~~(b)) the taxes due under this chapter have been paid as prescribed in RCW 83.100.050, and the request for a release includes the sworn statement of the personal representative that in fact all taxes due have been paid.~~

(2) The obtaining of this release shall give to the personal representative sufficient authority to effectuate the transfer of all property composing the decedent's estate.

Passed the House February 13, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 45

[House Bill No. 1637]

EMERGENCY INFORMATION TELEPHONE SERVICES—AVAILABILITY AND PRICING

AN ACT Relating to emergency information services; and adding a new section to chapter 43.17 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.17 RCW to read as follows:

(1) The legislature finds that when the state provides emergency information by telephone to citizens that is of a critical nature, such as road or weather hazards, the information should be accessible from all residential, commercial, and coin-operated telephones. Information such as road and weather conditions should be available to all persons traveling within the state whether they own a telephone in this state or not.

(2) If an agency or department of the state makes emergency information services available by telephone, the agency or department shall ensure that the telephone line is accessible from all coin-operated telephones in this state by both the use of coins and the use of a telephone credit card.

(3) A state agency that provides an emergency information service by telephone may establish charges to recover the cost of those services. However, an agency charging for the service shall not price it at a profit to create excess revenue for the agency. The agency shall do a total cost-benefit analysis of the available methods of providing the service and shall adopt the method that provides the service at the lowest cost to the user and the agency.

(4) "Emergency information services," as used in this section, includes information on road and weather conditions.

Passed the House February 16, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 46

[Substitute House Bill No. 1622]

FLOOD CONTROL

AN ACT Relating to flooding; and amending RCW 86.26.007, 86.26.040, 86.26.050, 86.26.100, and 86.26.105.

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

Sec. 1. Section 1, chapter 212, Laws of 1984 as amended by section 88, chapter 57, Laws of 1985 and RCW 86.26.007 are each amended to read as follows:

The flood control assistance account is hereby established in the state treasury. At the beginning of each biennium after June 30, 1985, the state treasurer shall transfer from the general fund to the flood control assistance account an amount of money which, when combined with money remaining in the account from the previous biennium, will equal four million dollars. Moneys in the flood control assistance account may be spent only after appropriation for ((a specified list of projects)) purposes specified under this chapter. All earnings of investments of balances in the flood control assistance account shall be credited to the general fund.

Sec. 2. Section 6, chapter 240, Laws of 1951 as amended by section 3, chapter 212, Laws of 1984 and RCW 86.26.040 are each amended to read as follows:

Whenever state grants under this chapter are used in a flood control maintenance project, the engineer of the county within which the project is located shall approve all plans for the specific project and shall supervise the work. The approval of such plans, construction and expenditures by the department of ecology, in consultation with the department of fisheries and the department of game, shall be a condition precedent to state participation in the cost of any project beyond planning and designing the specific project.

Additionally, state grants may be made to counties for preparation of a comprehensive flood control management plan required to be prepared under RCW 86.26.050.

Sec. 3. Section 7, chapter 240, Laws of 1951 as last amended by section 1, chapter 454, Laws of 1985 and RCW 86.26.050 are each amended to read as follows:

(1) State participation shall be in such preparation of comprehensive flood control management plans and flood control maintenance projects as are affected with a general public and state interest, as differentiated from a private interest, and as are likely to bring about public benefits commensurate with the amount of state funds allocated thereto.

(2) No participation for flood control maintenance projects may occur with a county or other municipal corporation unless the director of ecology has approved the flood plain management activities of the county, city, or town having planning jurisdiction over the area where the flood control maintenance project will be, on the one hundred year flood plain surrounding such area.

The department of ecology shall adopt rules concerning the flood plain management activities of a county, city, or town that are adequate to protect or preclude flood damage to structures, works, and improvements, including the restriction of land uses within a river's meander belt or floodway

to only flood-compatible uses. Whenever the department has approved county, city, and town flood plain management activities, as a condition of receiving an allocation of funds under this chapter, each revision to the flood plain management activities must be approved by the department of ecology, in consultation with the department of fisheries and the department of game.

No participation (~~may occur~~) with a county or other municipal corporation for flood control maintenance projects may occur unless the county engineer of the county within which the flood control maintenance project is located certifies that a comprehensive flood control management plan has been completed and adopted by the appropriate local authority, or is being prepared for all portions of the river basin or other area, within which the project is located in that county, that are subject to flooding with a frequency of one hundred years or less. (~~Such~~)

(3) Participation for flood control maintenance projects and preparation of comprehensive flood control management plans shall be made from grants made by the department of ecology from the flood control assistance account. Comprehensive flood control management plans, and any revisions to the plans, must be approved by the department of ecology, in consultation with the department of fisheries and the department of game.

Sec. 4. Section 12, chapter 240, Laws of 1951 as amended by section 8, chapter 212, Laws of 1984 and RCW 86.26.100 are each amended to read as follows:

State participation in the cost of any flood control maintenance project shall be provided for by a written memorandum agreement between the director of ecology and the legislative authority of the county submitting the request, which agreement, among other things, shall state the estimated cost and the percentage thereof to be borne by the state. In no instance, except on emergency projects, shall the state's share exceed one-half the cost of the project, to include project planning and design. However, grants to prepare a comprehensive flood control management plan required under RCW 86.26.050 shall not exceed seventy-five percent of the full planning costs, but not to exceed amounts for either purpose specified in rule and regulation by the department of ecology.

Sec. 5. Section 9, chapter 212, Laws of 1984 and RCW 86.26.105 are each amended to read as follows:

A comprehensive flood control management plan shall determine the need for flood control work, consider alternatives to in-stream flood control work, identify and consider potential impacts of in-stream flood control work on the state's in-stream resources, and identify the river's meander belt or floodway. A comprehensive flood control management plan shall be completed and adopted within at least three years of the certification that it is being prepared, as provided in RCW 86.26.050.

If after this three-year period has elapsed such a comprehensive flood control plan has not been completed and adopted, grants for flood control maintenance projects shall not be made to the county or municipal corporations in the county until a comprehensive flood control plan is completed and adopted by the appropriate local authority. These limitations on grants shall not preclude allocations for emergency purposes made pursuant to RCW 86.26.060.

Passed the House February 14, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 47

[Engrossed House Bill No. 1563]

WINTER RECREATIONAL AREA PARKING PERMIT FEE MODIFIED—WINTER RECREATION ADVISORY COMMITTEE—TERMS MODIFIED—SUNSET DATE EXTENDED

AN ACT Relating to winter recreational facilities; and amending RCW 43.51.300 and 43.51.340.

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

Sec. 1. Section 2, chapter 209, Laws of 1975 1st ex. sess. as amended by section 2, chapter 11, Laws of 1982 and RCW 43.51.300 are each amended to read as follows:

The fee for the issuance of the special winter recreational area parking permit for each winter season commencing on October 1st of each year shall be determined by the commission after consultation with the winter recreation advisory committee(~~(-PROVIDED, HOWEVER, That such fee may not exceed ten dollars annually)~~). If the person making application therefor is also the owner of a snowmobile registered pursuant to chapter 46.10 RCW, there shall be no fee for the issuance of the permit. All special winter recreational area parking permits shall expire on the last day of September following the issuance of such permit.

Sec. 2. Section 8, chapter 209, Laws of 1975 1st ex. sess. as amended by section 6, chapter 11, Laws of 1982 and RCW 43.51.340 are each amended to read as follows:

(1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

(c) One representative of the department of natural resources, one representative of the department of game, and one representative of the Washington state association of counties, each of whom shall be appointed by the director of the particular department or association.

(3) The terms of the members appointed under subsection (2) (a) and (b) of this section shall begin on (~~July~~) October 1 of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of the unexpired term: PROVIDED, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(4) Members of the committee appointed under subsection (2) (a) and (b) of this section shall be reimbursed from the winter recreational program account created by RCW 43.51.310 for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

(5) The committee shall meet at times and places it determines not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. The chairman of the committee shall be chosen under rules adopted by the committee. The committee shall adopt any other rules necessary to govern its proceedings.

(6) The director of parks and recreation or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(7) The winter recreation advisory committee and its powers and duties shall terminate on June 30, (~~1986~~) 1991.

Passed the House February 13, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 48

[Engrossed House Bill No. 1743]

USE TAX COLLECTION—ENGAGES IN BUSINESS ACTIVITY WITHIN THIS STATE DEFINED

AN ACT Relating to use tax collection; amending RCW 82.12.040; and providing an effective date.

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

Sec. 1. Section 82.12.040, chapter 15, Laws of 1961 as last amended by section 11, chapter 299, Laws of 1971 ex. sess. and RCW 82.12.040 are each amended to read as follows:

(1) Every person who maintains in this state a place of business or a stock of goods, or engages in business activities within this state, shall obtain from the department a certificate of registration, and shall, at the time of making sales, or making transfers of either possession or title or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. For the purposes of this chapter, the phrase "maintains in this state a place of business" shall include the solicitation of sales and/or taking of orders by sales agents or traveling representatives. For the purposes of this chapter, "engages in business activity within this state" includes every activity which is sufficient under the Constitution of the United States for this state to require collection of tax under this chapter. The department shall in rules specify activities which constitute engaging in business activity within this state, and shall keep the rules current with future court interpretations of the Constitution of the United States.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property of his principals made for use in this state, shall, at the time such sales are made, collect from the purchasers the tax imposed under this chapter, and for that purpose shall be deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter shall be deemed to be held in trust by the retailer until paid to the department and any retailer who appropriates or converts the tax collected to his own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed shall be guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the department in the manner prescribed, whether such failure is the result of his own acts or the result of acts or conditions beyond his control, he shall nevertheless, be personally liable to the state for the amount of such tax.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter (~~or makes in any form of advertising, verbal or otherwise, any statements which might infer that he is absorbing the tax or paying the tax for the purchaser or transferee by an adjustment of prices, or at a price including the tax, or in any other manner whatsoever~~) shall be guilty of a misdemeanor.

NEW SECTION. Sec. 2. This act shall take effect July 1, 1986.

Passed the House February 14, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 49

[House Bill No. 1572]

UTILITIES AND TRANSPORTATION COMMISSION—RECONSIDERATION OF ORDERS

AN ACT Relating to special proceedings of the utilities and transportation commission; and repealing RCW 80.04.165 and 81.04.165.

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

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

(1) Section 80.04.165, chapter 14, Laws of 1961 and RCW 80.04.165; and

(2) Section 81.04.165, chapter 14, Laws of 1961 and RCW 81.04.165.

Passed the House February 10, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 50

[Substitute House Bill No. 1654]

LOCAL GOVERNMENT DEBT COMPUTATION

AN ACT Relating to local government debt computation; amending RCW 39.36.030; and adding a new section to chapter 39.36 RCW.

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

Sec. 1. Section 2, chapter 143, Laws of 1917 as amended by section 1, chapter 123, Laws of 1921 and RCW 39.36.030 are each amended to read as follows:

(1) Whenever it shall be necessary to compute the indebtedness of a taxing district for bonding or any other indebtedness purposes, taxes levied for the current year and cash on hand received for the purpose of carrying on the business of such taxing district for such current year shall be considered as an asset only as against indebtedness incurred during such current year which is payable from such taxes or cash on hand: PROVIDED, HOWEVER, That all taxes levied for the payment of bonds, warrants or other public debts of such taxing district, shall be deemed a competent and

sufficient asset of the taxing district to be considered in calculating the constitutional debt limit or the debt limit prescribed by this chapter for any taxing district: PROVIDED, That the provisions of this section shall not apply in computing the debt limit of a taxing district in connection with bonds authorized pursuant to a vote of the electors at an election called prior to March 1, 1917.

(2) If reductions in assessed valuation of property within a taxing district result in the outstanding indebtedness of the taxing district exceeding its statutory indebtedness limitations, the amount of such excess indebtedness shall not be included in the statutory indebtedness ceiling. Additional indebtedness that is subject to indebtedness limitations, other than refinancing indebtedness that does not increase the total amount of indebtedness, may not be issued by such a taxing district until its total outstanding indebtedness, including that which this subsection removes from the statutory indebtedness limitations, is below these limitations.

(3) Nothing in this section authorizes taxing districts to incur indebtedness beyond constitutional indebtedness limitations.

NEW SECTION. Sec. 2. A new section is added to chapter 39.36 RCW to read as follows:

Prior to December 1, 1986, the house local government committee and the senate committee on governmental operations shall undertake a joint study of local government debt limitations. Such study shall include an analysis of the degree which taxing districts have utilized existing voter and nonvoter approved debt issuance authority, the degree to which increased debt authority is necessary to accommodate substitution of state and federal loan programs for former grant-in-aid programs, and the degree to which issuance of debt may provide for a greater long-run efficient utilization of resources to meet prospective capital needs.

Passed the House February 11, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 51

[House Bill No. 1711]

ENVIRONMENTAL EDUCATION COORDINATING COMMITTEE

AN ACT Relating to environmental education; 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 finds and declares that the natural resources of Washington state are a critical component of the aesthetic, economic, and environmental quality of life in this state. The legislature intends to maximize access to information on contemporary resource issues in the public school system.

NEW SECTION. Sec. 2. A coordinating committee for environmental education is established. The committee shall be composed of members who represent natural resource agencies, educators at the primary and secondary levels, environmental groups, and the natural resource industry. The members shall be selected by the superintendent of public instruction. The committee shall function under the office of the superintendent of public instruction. The committee shall encourage cooperation among environmental educators at the state and local levels. The committee shall develop recommendations to improve environmental education in the state.

The committee shall submit a report by December 31, 1986, to the legislature.

NEW SECTION. Sec. 3. This act shall expire December 31, 1986.

Passed the House February 14, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 52

[Substitute House Bill No. 1332]

DRUGS—GENERIC AND BRAND NAME

AN ACT Relating to pharmacists; and amending RCW 69.41.100 and 69.41.130.

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

Sec. 1. Section 1, chapter 352, Laws of 1977 ex. sess. and RCW 69.41.100 are each amended to read as follows:

The legislature recognizes the responsibility of the state to insure that the citizens of the state are offered a choice between generic drugs and brand name drugs and the benefit of quality pharmaceutical products at competitive prices. Advances in the drug industry resulting from research and the elimination of counterfeiting of prescription drugs should benefit the users of the drugs. Pharmacy must continue to operate with accountability and effectiveness. The legislature hereby declares it to be the policy of the state that its citizens receive safe and therapeutically effective drug products at the most reasonable cost consistent with high drug quality standards.

Sec. 2. Section 4, chapter 352, Laws of 1977 ex. sess. as amended by section 3, chapter 110 Laws of 1979 and RCW 69.41.130 are each amended to read as follows:

Unless the brand name drug is requested by the patient or the patient's representative, the pharmacist shall substitute an equivalent drug product which he has in stock if its wholesale price to the pharmacist is less than the wholesale price of the prescribed drug product, and at least sixty percent of the savings shall be passed on to the purchaser.

Passed the House February 6, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 11, 1986.

Filed in Office of Secretary of State March 11, 1986.

CHAPTER 53

[Engrossed Substitute House Bill No. 1479]

METHADONE TREATMENT CENTERS

AN ACT Relating to drug treatment centers; amending RCW 69.54.030; adding a new section to chapter 69.54 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 69.54 RCW to read as follows:

The department, in consultation with treatment service providers, shall establish state-wide treatment standards for methadone treatment centers no later than December 1, 1986, and shall submit such standards to the legislature in a report for review and consideration prior to the regular session of the legislature in 1987.

Sec. 2. Section 3, chapter 304, Laws of 1971 ex. sess. and RCW 69.54.030 are each amended to read as follows:

Every drug treatment center in this state shall apply to the secretary of social and health services for certification as an approved drug treatment center: PROVIDED, That after the effective date of this 1986 act, no certifications shall be made until the standards developed by the department shall have been established, pursuant to section 1 of this 1986 act, or until December 1, 1986, whichever is soonest.

The secretary of social and health services shall issue application forms which shall require the following, where applicable:

- (1) The name and address of the applicant drug treatment center;
- (2) The name of the director or head of such drug treatment center;
- (3) The names of the members of the board of directors or sponsors of such drug treatment center;
- (4) The names and addresses of all physicians affiliated with such drug treatment center;
- (5) A short description of the nature of treatment and/or rehabilitation used by such drug treatment center; and the qualifications of staff to employ such treatment and/or rehabilitation methods;

(6) The source of funds used to finance the activities of such drug treatment center;

(7) Any other information required by rule or regulation of the secretary of social and health services pertaining to the qualifications of such drug treatment center.

The secretary of social and health services may either grant or deny approval or revoke or suspend approval previously granted after investigation to ascertain whether or not such center is adequate to the care, treatment, and rehabilitation of such persons who have voluntarily submitted themselves to the care of such center; such grant, denial or revocation of approval shall be in accordance with standards as set forth in rules and regulations promulgated by the secretary.

No program may be certified by the department in any county, where the county legislative authority has prohibited methadone treatment. Counties may license methadone treatment programs based on compliance with the department's treatment regulations under this section and section one of this act. Counties shall be authorized to monitor methadone treatment programs for compliance with the department's treatment regulations under this section and section one of this act. Any county legislative authority may limit the number of licenses granted in that county where such number is based on methadone programs per population provided that such number shall not be less than the number of clinics certified in such county as of the effective date of this act.

In certifying programs or awarding contracts, neither the department nor any county may discriminate against any methadone program on the basis of its corporate structure.

Any program applying for certification from the department and any program applying for a contract from any state agency or any county legislative authority which has been denied such certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

Such approval shall be effective for one calendar year from the date of such approval. Renewal of approval shall be made in accordance with the provisions of this section for initial approval and in accordance with the standards set forth in rules and regulations promulgated by the secretary.

NEW SECTION. Sec. 3. 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. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

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

Passed the House March 9, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 54

[House Bill No. 1490]

INDUSTRIAL INSURANCE—REIMBURSEMENT OF PAYMENTS

AN ACT Relating to reimbursement of industrial insurance payments; and amending RCW 51.32.240.

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

Sec. 1. Section 13, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.240 are each amended to read as follows:

(1) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by fraud, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived. The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.04 RCW, may exercise his discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department issues an order rejecting a claim for benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for temporary disability benefits has been paid by a self-insurer pursuant to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the recipient thereof shall repay such benefits and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, under rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.04 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(3) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or

any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.04 RCW, may exercise his discretion to waive, in whole or in pari, the amount of any such payments where the recovery would be against equity and good conscience.

~~((3))~~ (4) Whenever any payment of benefits under this title has been induced by fraud the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the fraud was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within one year of the discovery of the fraud.

Passed the House February 12, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 55

[Substitute House Bill No. 1581]

INDUSTRIAL INSURANCE—SELF-INSURERS—CLAIMS CLOSURE

AN ACT Relating to industrial insurance; amending RCW 51.32.055; creating a new section; making an appropriation; providing an effective date; and providing an expiration date.

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

Sec. 1. Section 46, chapter 289, Laws of 1971 ex. sess. as last amended by section 1, chapter 326, Laws of 1981 and RCW 51.32.055 are each amended to read as follows:

(1) One purpose of this title is to restore the injured worker as near as possible to the condition of self-support as an able-bodied worker. Benefits for permanent disability shall be determined under the director's supervision only after the injured worker's condition becomes fixed.

(2) All determinations of permanent disabilities shall be made by the department. Either the worker, employer, or self-insurer may make a request or such inquiry may be initiated by the director on his or her own

motion. Such determinations shall be required in every instance where permanent disability is likely to be present. All medical reports and other pertinent information in the possession of or under the control of the employer or self-insurer shall be forwarded to the director with such requests.

(3) A request for determination of permanent disability shall be examined by the department and an order shall issue in accordance with RCW 51.52.050.

(4) The department may require that the worker present himself or herself for a special medical examination by a physician, or physicians, selected by the department, and the department may require that the worker present himself or herself for a personal interview. In such event the costs of such examination or interview, including payment of any reasonable travel expenses, shall be paid by the department or self-insurer as the case may be.

(5) The director may establish a medical bureau within the department to perform medical examinations under this section. Physicians hired or retained for this purpose shall be grounded in industrial medicine and in the assessment of industrial physical impairment. Self-insurers shall bear a proportionate share of the cost of such medical bureau in a manner to be determined by the department.

(6) Where dispute arises from the handling of any claims prior to the condition of the injured worker becoming fixed, the worker, employer, or self-insurer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In such cases the department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050.

(7) (a) In the case of claims accepted by self-insurers after June 30, 1986, and before July 1, 1988, which involve only medical treatment and/or the payment of temporary disability compensation under RCW 51.32.090 and which at the time medical treatment is concluded do not involve permanent disability, if the claim is one with respect to which the department has not intervened under subsection (6) of this section, and the injured worker has returned to work with the self-insured employer of record, such claims may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.04 RCW.

(b) All determinations of permanent disability for claims accepted by self-insurers after June 30, 1986, and before July 1, 1988, shall be made by the self-insured section of the department under subsections (1) through (4) of this section.

(c) Upon closure of claims under (a) of this subsection the self-insurer shall enter a written order, communicated to the worker and the department self-insurance section, which contains the following statement clearly set forth in bold face type: "This order constitutes notification that your claim

is being closed with medical benefits and temporary disability compensation only as provided, and with the condition you have returned to work with the self-insured employer. If for any reason you disagree with the conditions or duration of your return to work or the medical benefits or the temporary disability compensation that has been provided, you may protest in writing to the department of labor and industries, self-insurance section, within sixty days of the date you received this order." In the event the department receives such a protest the self-insurer's closure order shall be held in abeyance. The department shall review the claim closure action and enter a determinative order as provided for in RCW 51.52.050.

(d) If within two years of claim closure the department determines that the self-insurer has made payment of benefits because of clerical error, mistake of identity, or innocent misrepresentation, or the department discovers a violation of the conditions of claim closure, the department may require the self-insurer to correct the benefits paid or payable. This paragraph shall not limit in any way the application of RCW 51.32.240.

(8) In the case of claims accepted by self-insurers after June 30, 1988, which involve only medical treatment and which do not involve payment of temporary disability compensation under RCW 51.32.090 and which at the time medical treatment is concluded do not involve permanent disability, such claims may be closed by the self-insurers subject to reporting of claims to the department in a manner prescribed by department rules promulgated pursuant to chapter 34.04 RCW. Upon such closure the self-insurers shall enter a written order, communicated to the worker, which contains the following statement clearly set forth in bold-face type: "This order constitutes notification that your claim is being closed with medical benefits only, as provided. If for any reason you disagree with this closure, you may protest in writing to the Department of Labor and Industries, Olympia, within 60 days of the date you received this order. The department will then review your claim and enter a further determinative order." In the event the department receives such a protest it shall review the claim and enter a further determinative order as provided for in RCW 51.52.050.

NEW SECTION. Sec. 2. The department of labor and industries shall conduct a study of the program established by section 1 of this act. The study shall be funded by a special assessment on all self-insured employers. The study and the special assessment shall be conducted under department rules adopted pursuant to chapter 34.04 RCW. The department shall make periodic reports on the study to the joint select committee on industrial insurance, or to the commerce and labor committees of the senate and house of representatives, or the appropriate successor committees, and to the workers' compensation advisory committee. The initial report shall be made by January 1, 1987, with quarterly reports made thereafter. A final report shall be made to the legislature at the commencement of the 1988 regular legislative session.

This section shall expire on July 1, 1988.

NEW SECTION. Sec. 3. There is appropriated twenty-four thousand five hundred dollars from the medical aid fund of the department of labor and industries and twenty-four thousand five hundred dollars from the accident fund of the department of labor and industries, or so much thereof as may be necessary, to the department of labor and industries for the biennium ending June 30, 1987, to carry out the purposes of section 2 of this act.

NEW SECTION. Sec. 4. Section 1 of this act shall take effect July 1, 1986, and shall apply to claims accepted after June 30, 1986.

Passed the House February 12, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 56

[House Bill No. 1721]

**INDUSTRIAL INSURANCE—SUPPLEMENTAL PENSION FUND—
OCCUPATIONAL DISEASE**

AN ACT Relating to the supplemental pension fund; and amending RCW 51.48.110.

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

Sec. 1. Section 65, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.110 are each amended to read as follows:

Where death results from the injury or occupational disease and the deceased leaves no beneficiaries, a self-insurer shall pay into the supplemental pension fund the sum of ten thousand dollars.

Passed the House February 14, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 57

[Substitute House Bill No. 1783]

INDUSTRIAL INSURANCE—SELF-INSURERS—SECURITY REQUIREMENTS

AN ACT Relating to securing the obligations of self-insured employers; amending RCW 51.14.020, 51.14.060, 51.14.070, and 51.14.080; adding new sections to chapter 51.14 RCW; and creating a new section.

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

Sec. 1. Section 27, chapter 289, Laws of 1971 ex. sess. as last amended by section 9, chapter 323, Laws of 1977 ex. sess. and RCW 51.14.020 are each amended to read as follows:

(1) An employer may qualify as a self-insurer by establishing to the director's satisfaction that he or she has sufficient financial ability to make certain the prompt payment of all compensation under this title and all assessments which may become due from such employer. Each application for certification as a self-insurer submitted by an employer shall be accompanied by payment of a fee of one hundred fifty dollars or such larger sum as the director shall find necessary for the administrative costs of evaluation of the applicant's qualifications. Any employer who has formerly been certified as a self-insurer and thereafter ceases to be so certified may not apply for certification within three years of ceasing to have been so certified.

(2) A self-insurer may be required by the director to supplement existing financial ability by depositing in an escrow account in a depository designated by the director, money and/or corporate or governmental securities approved by the director, or a surety bond written by any company admitted to transact surety business in this state filed with the department. The money, securities, or bond shall be in an amount reasonably sufficient in the director's discretion to insure payment of reasonably foreseeable compensation and assessments but not less than the employer's normal expected annual claim liabilities and in no event less than one hundred thousand dollars. In arriving at the amount of money, securities, or bond required under this subsection, the director shall take into consideration the financial ability of the employer to pay compensation and assessments and his or her probable continuity of operation. The money, securities, or bond so deposited shall be held by the director to secure the payment of compensation by the self-insurer and to secure payment of his or her assessments. The amount of security may be increased or decreased from time to time by the director. The income from any securities deposited may be distributed currently to the self-insurer.

(3) Securities or money deposited by an employer pursuant to subsection (2) of this section shall be returned to him or her upon his or her written request provided the employer files the bond required by such subsection.

(4) If the employer seeking to qualify as a self-insurer has previously insured with the state fund, the director shall require the employer to make up his or her proper share of any deficit or insufficiency in the state fund as a condition to certification as a self-insurer.

(5) A self-insurer may reinsure a portion of his or her liability under this title with any reinsurer authorized to transact such reinsurance in this state: PROVIDED, That the reinsurer may not participate in the administration of the responsibilities of the self-insurer under this title. Such reinsurance may not exceed eighty percent of the liabilities under this title.

(6) For purposes of the application of this section, the department may adopt separate rules establishing the security requirements applicable to units of local government. In setting such requirements, the department

shall take into consideration the ability of the governmental unit to meet its self-insured obligations, such as but not limited to source of funds, permanency, and right of default.

Sec. 2. Section 31, chapter 289, Laws of 1971 ex. sess. and RCW 51-14.060 are each amended to read as follows:

(1) The director may, in cases of default upon any obligation under this title by the self-insurer, after ten days notice by certified mail to the defaulting self-insurer of ~~((his))~~ the intention to do so, bring suit upon such bond or collect the interest and principal of any of the securities as they may become due or sell the securities or any of them as may be required or apply the money deposited, all in order to pay compensation~~(-)~~ and discharge the obligations of the defaulting self-insurer under this title~~((, and pay premiums for future insurance of the employer's obligations))~~.

(2) The director shall be authorized to fulfill the defaulting self-insured employer's obligations under this title~~((, paying the necessary premium))~~ from the defaulting self-insured employer's deposit or from other funds provided under this title for the satisfaction of claims against the defaulting self-insured employer~~((, and having subrogation rights against the defaulting employer to the extent of any funds, other than the employer's deposit, expended for the payment of premiums or compensation in performance of the defaulting employer's obligations))~~. The defaulting self-insured employer is liable to and shall reimburse the director for the amounts necessary to fulfill the obligations of the defaulting self-insured employer that are in excess of the amounts received by the director from any bond filed, or securities or money deposited, by the defaulting self-insured employer pursuant to chapter 51.14 RCW. The amounts to be reimbursed shall include all amounts paid or payable as compensation under this title together with administrative costs, including attorneys' fees, and shall be considered taxes due the state of Washington.

Sec. 3. Section 36, chapter 289, Laws of 1971 ex. sess. and RCW 51-14.070 are each amended to read as follows:

~~((+))~~ Whenever compensation due under this title is not paid because of an uncorrected default of a self-insurer, such compensation shall be paid from the medical aid and accidents funds ~~((only after the moneys available from the bonds or other security provided under RCW 51.14.020 have been exhausted:~~

~~(2) Such defaulting self-insurer or surety, if any, shall be liable for payment into the appropriate fund of the amounts paid therefrom by the director, and for the purpose of enforcing this liability the director, for the benefit of the appropriate fund, shall be subrogated to all of the rights of the person receiving such compensation))~~, and any moneys obtained by the director from the bonds or other security provided under RCW 51.14.020 shall be deposited to the appropriate fund for the payment of compensation and administrative costs, including attorneys' fees.

NEW SECTION. Sec. 4. A new section is added to chapter 51.14 RCW to read as follows:

(1) In all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, the claim of the state for the amounts necessary to fulfill the obligations of a defaulting self-insured employer together with administrative costs and attorneys' fees is a lien prior to all other liens or claims and on a parity with prior tax liens and the mere existence of a default by a self-insured employer is sufficient to create the lien without any prior or subsequent action by the state. All administrators, receivers, and assignees for the benefit of creditors shall notify the director of such administration, receivership, or assignment within thirty days of their appointment or qualification.

(2) Separate and apart and in addition to the lien established by this section, the department may issue an assessment, as provided for in RCW 51.48.120, for the amount necessary to fulfill the defaulting self-insured employer's obligations, including all amounts paid and payable as compensation under this title and administrative costs, including attorneys' fees.

NEW SECTION. Sec. 5. It is the intent of the legislature to provide for the continuation of workers' compensation benefits in the event of the failure of a self-insured employer to meet its compensation obligations when the employer's security deposit, assets, and reinsurance are inadequate. The legislature finds and declares that the establishment of a self-insurers' insolvency trust is necessary to assure that benefit payments to injured workers of self-insured employers will not become the responsibility of the state fund.

NEW SECTION. Sec. 6. A new section is added to chapter 51.14 RCW to read as follows:

(1) A self-insurers' insolvency trust is established to provide for the unsecured benefits paid to the injured workers of self-insured employers under this title for insolvent or defaulting self-insured employers and for the department's associated administrative costs, including attorneys' fees. The self-insurers' insolvency trust shall be funded by an insolvency assessment which shall be levied on a post-insolvency basis and after the defaulting self-insured employer's security deposit, assets, and reinsurance, if any, have been exhausted. Insolvency assessments shall be imposed on all self-insured employers, except school districts, cities, and counties. The manner of imposing and collecting assessments to the insolvency fund shall be set forth in rules adopted by the department to ensure that self-insured employers pay into the fund in proportion to their claim costs. The department's rules shall provide that self-insured employers who have surrendered their certification shall be assessed for a period of not more than three calendar years following the termination date of their certification.

(2) The director shall adopt rules to carry out the purposes of this section, including but not limited to:

- (a) Governing the formation of the self-insurers' insolvency trust for the purpose of this chapter;
- (b) Governing the organization and operation of the self-insurers' insolvency trust to assure compliance with the requirements of this chapter;
- (c) Requiring adequate accountability of the collection and disbursement of funds in the self-insurers' insolvency trust; and
- (d) Any other provisions necessary to carry out the requirements of this chapter.

Sec. 7. Section 32, chapter 289, Laws of 1971 ex. sess. and RCW 51.14.080 are each amended to read as follows:

Certification of a self-insurer shall be withdrawn by the director upon one or more of the following grounds:

- (1) The employer no longer meets the requirements of a self-insurer;
- or
- (2) The self-insurer's deposit is insufficient; or
 - (3) The self-insurer intentionally or repeatedly induces employees to fail to report injuries, induces claimants to treat injuries in the course of employment as off-the-job injuries, persuades claimants to accept less than the compensation due, or unreasonably makes it necessary for claimants to resort to proceedings against the employer to obtain compensation; or
 - (4) The self-insurer habitually fails to comply with rules and regulations of the director regarding reports or other requirements necessary to carry out the purposes of this title; or
 - (5) The self-insurer habitually engages in a practice of arbitrarily or unreasonably refusing employment to applicants for employment or discharging employees because of nondisabling bodily conditions; or
 - (6) The self-insurer fails to pay an insolvency assessment under the procedures established pursuant to section 6 of this 1986 act.

Passed the House February 12, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 58

[Substitute House Bill No. 1873]

INDUSTRIAL INSURANCE BENEFITS—INJURED WORKERS—OPTIONS— IMMUNOLOGICAL TREATMENT

AN ACT Relating to benefits for injured workers; amending RCW 51.24.030, 51.32.080, 51.32.050, 51.32.060, and 51.36.010; adding a new section to chapter 51.32 RCW; and providing an effective date.

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

Sec. 1. Section 1, chapter 85, Laws of 1977 ex. sess. as amended by section 3, chapter 218, Laws of 1984 and RCW 51.24.030 are each amended to read as follows:

(1) If ~~((an injury to a worker))~~ a third person, not in a worker's same employ, is or may become liable to pay damages on account of a worker's injury for which benefits and compensation are provided under this title ((is due to the negligence or wrong of a third person not in the same employ)), the injured worker or beneficiary may elect to seek damages from the third person.

(2) For the purposes of this chapter, "injury" shall include any physical or mental condition, disease, ailment or loss, including death, for which compensation and benefits are paid or payable under this title.

(3) Damages recoverable by a worker or beneficiary pursuant to the underinsured motorist coverage of an insurance policy shall be subject to this chapter only if the owner of the policy is the employer of the injured worker.

Sec. 2. Section 51.32.080, chapter 23, Laws of 1961 as last amended by section 2, chapter 20, Laws of 1982 1st ex. sess. and RCW 51.32.080 are each amended to read as follows:

(1) For the permanent partial disabilities here specifically described, the injured worker shall receive compensation as follows:

LOSS BY AMPUTATION

Of leg above the knee joint with short thigh stump (3" or less below the tuberosity of ischium)	\$ ((36,000.00)) <u>54,000.00</u>
Of leg at or above knee joint with functional stump.....	((32,400.00)) <u>48,600.00</u>
Of leg below knee joint	((28,800.00)) <u>43,200.00</u>
Of leg at ankle (Syme)	((25,200.00)) <u>37,800.00</u>
Of foot at mid-metatarsals	((12,600.00)) <u>18,900.00</u>
Of great toe with resection of metatarsal bone	((7,560.00)) <u>11,340.00</u>
Of great toe at metatarsophalangeal joint	((4,536.00)) <u>6,804.00</u>
Of great toe at interphalangeal joint	((2,400.00)) <u>3,600.00</u>

Of lesser toe (2nd to 5th) with resection of metatarsal bone	((2,760.00)) <u>4,140.00</u>
Of lesser toe at metatarsophalangeal joint	((1,344.00)) <u>2,016.00</u>
Of lesser toe at proximal interphalangeal joint	((996.00)) <u>1,494.00</u>
Of lesser toe at distal interphalangeal joint	((252.00)) <u>378.00</u>
Of arm at or above the deltoid insertion or by disarticulation at the shoulder	((36,000.00)) <u>54,000.00</u>
Of arm at any point from below the deltoid insertion to below the elbow joint at the insertion of the biceps tendon	((34,200.00)) <u>51,300.00</u>
Of arm at any point from below the elbow joint distal to the insertion of the biceps tendon to and including mid-metacarpal amputation of the hand	((32,400.00)) <u>48,600.00</u>
Of all fingers except the thumb at metacarpophalangeal joints	((19,440.00)) <u>29,160.00</u>
Of thumb at metacarpophalangeal joint or with resection of carpometacarpal bone	((12,960.00)) <u>19,440.00</u>
Of thumb at interphalangeal joint	((6,480.00)) <u>9,720.00</u>
Of index finger at metacarpophalangeal joint or with resection of metacarpal bone	((8,100.00)) <u>12,150.00</u>
Of index finger at proximal interphalangeal joint	((6,480.00)) <u>9,720.00</u>
Of index finger at distal interphalangeal joint	((3,564.00)) <u>5,346.00</u>
Of middle finger at metacarpophalangeal joint or with resection of metacarpal bone	((6,480.00)) <u>9,720.00</u>
Of middle finger at proximal interphalangeal joint	((5,184.00)) <u>7,776.00</u>

Of middle finger at distal interphalangeal joint	((2,916.00))
	<u>4,374.00</u>
Of ring finger at metacarpophalangeal joint or with resection of metacarpal bone	((3,240.00))
	<u>4,860.00</u>
Of ring finger at proximal interphalangeal joint	((2,592.00))
	<u>3,888.00</u>
Of ring finger at distal interphalangeal joint	((1,620.00))
	<u>2,430.00</u>
Of little finger at metacarpophalangeal joint or with resection of metacarpal bone	((1,620.00))
	<u>2,430.00</u>
Of little finger at proximal interphalangeal joint	((1,296.00))
	<u>1,944.00</u>
Of little finger at distal interphalangeal joint	((648.00))
	<u>972.00</u>

MISCELLANEOUS

Loss of one eye by enucleation	((14,400.00))
	<u>21,600.00</u>
Loss of central visual acuity in one eye	((12,000.00))
	<u>18,000.00</u>
Complete loss of hearing in both ears	((28,800.00))
	<u>43,200.00</u>
Complete loss of hearing in one ear	((4,800.00))
	<u>7,200.00</u>

(2) Compensation for amputation of a member or part thereof at a site other than those above specified, and for loss of central visual acuity and loss of hearing other than complete, shall be in proportion to that which such other amputation or partial loss of visual acuity or hearing most closely resembles and approximates. Compensation for any other permanent partial disability not involving amputation shall be in the proportion which the extent of such other disability, called unspecified disability, shall bear to that above specified, which most closely resembles and approximates in degree of disability such other disability, compensation for any other unspecified permanent partial disability shall be in an amount as measured and compared to total bodily impairment: PROVIDED, That in order to reduce litigation and establish more certainty and uniformity in the rating of unspecified permanent partial disabilities, the department shall enact rules having the force of law classifying such disabilities in the proportion which the department shall determine such disabilities reasonably bear to total bodily impairment. In enacting such rules, the department shall give consideration to, but need not necessarily adopt, any nationally recognized

medical standards or guides for determining various bodily impairments. For purposes of calculating monetary benefits, the amount payable for total bodily impairment shall be deemed to be ~~((sixty))~~ ninety thousand dollars: PROVIDED, That compensation for unspecified permanent partial disabilities involving injuries to the back that do not have marked objective clinical findings to substantiate the disability shall be determined at an amount equal to seventy-five percent of the monetary value of such disability as related to total bodily impairment: PROVIDED FURTHER, That the total compensation for all unspecified permanent partial disabilities resulting from the same injury shall not exceed the sum of ~~((sixty))~~ ninety thousand dollars, except that the total compensation for all unspecified permanent partial disabilities involving injuries to the back that do not have marked objective clinical findings to substantiate the disability and resulting from the same injury shall not exceed the sum of ~~((forty-five))~~ sixty-seven thousand five hundred dollars: PROVIDED FURTHER, That in case permanent partial disability compensation is followed by permanent total disability compensation, any portion of the permanent partial disability compensation which exceeds the amount that would have been paid the injured worker if permanent total disability compensation had been paid in the first instance, shall be deducted from the pension reserve of such injured worker and his or her monthly compensation payments shall be reduced accordingly.

(3) Should a worker receive an injury to a member or part of his or her body already, from whatever cause, permanently partially disabled, resulting in the amputation thereof or in an aggravation or increase in such permanent partial disability but not resulting in the permanent total disability of such worker, his or her compensation for such partial disability shall be adjudged with regard to the previous disability of the injured member or part and the degree or extent of the aggravation or increase of disability thereof.

(4) When the compensation provided for in subsections (1) and (2) exceeds three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, payment shall be made in monthly payments in accordance with the schedule of temporary total disability payments set forth in RCW 51.32.090 until such compensation is paid to the injured worker in full, except that the first monthly payment shall be in an amount equal to three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, and interest shall be paid at the rate of eight percent on the unpaid balance of such compensation commencing with the second monthly payment: PROVIDED, That upon application of the injured worker or survivor the monthly payment may be converted, in whole or in part, into a lump sum payment, in which event the monthly payment shall cease in whole or in part. Such conversion

may be made only upon written application of the injured worker or survivor to the department and shall rest in the discretion of the department depending upon the merits of each individual application: PROVIDED FURTHER, That upon death of a worker all unpaid installments accrued shall be paid according to the payment schedule established prior to the death of the worker to the widow or widower, or if there is no widow or widower surviving, to the dependent children of such claimant, and if there are no such dependent children, then to such other dependents as defined by this title.

Sec. 3. Section 51.32.050, chapter 23, Laws of 1961 as last amended by section 18, chapter 63, Laws of 1982 and RCW 51.32.050 are each amended to read as follows:

(1) Where death results from the injury the expenses of burial not to exceed two thousand dollars shall be paid.

(2) (a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker but not less than one hundred eighty-five dollars;

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker but not less than two hundred twenty-two dollars;

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker but not less than two hundred fifty-three dollars;

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker but not less than two hundred seventy-six dollars;

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker but not less than two hundred ninety-nine dollars; or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker but not less than three hundred twenty-two dollars.

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children

shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

(c) Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That the monthly payment made to the child or children of the deceased worker shall from the month following such remarriage be a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children.

(d) In no event shall the monthly payments provided in subsection (2) of this section exceed seventy-five percent of the average monthly wage in the state as computed under RCW 51.08.018.

(e) In addition to the monthly payments provided for in (2)(a) through (2)(c) of this section, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid the sum of one thousand six hundred dollars, any such children, or parents to share and share alike in said sum.

(f) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i) Receiving, once and for all, a lump sum of seventy-five hundred dollars or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 1, 1971, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in (2)(f)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in (2)(f)(i) of this section during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in (2)(f)(i) of this section, his or her estate shall be entitled to receive the sum of seventy-five hundred dollars or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

(h) The effective date of resumption of payments under (2)(f)(ii) of this section to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) shall not exceed sixty-five percent of the wages of the deceased worker at the time of his or her death or seventy-five percent of the average monthly wage in the state as defined in RCW 51.08.018, whichever is the lesser of the two sums.

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed sixty-five percent of the wages of the deceased worker at the time of the death or seventy-five percent of the average monthly wage in the state as defined in RCW 51.08.018, whichever is the lesser of the two sums. If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to the effective date of this 1986 act, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after the effective date of this 1986 act, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in section 4 of this 1986 act.

NEW SECTION. Sec. 4. A new section is added to chapter 51.32 RCW to read as follows:

(1) After a worker elects one of the options in (a), (b), or (c) of this subsection, that option shall apply only if the worker dies during a period of permanent total disability from a cause unrelated to the injury, leaving a surviving spouse, child, children, or other dependent. If, after making an election under this subsection, a worker dies from a cause related to the injury during a period of permanent total disability, his or her beneficiaries shall receive benefits under RCW 51.32.050 (2) through (5).

(a) *Option I.* An injured worker selecting this option shall receive the benefits provided by RCW 51.32.060, with no benefits being paid to the worker's surviving spouse, children, or others.

(b) *Option II.* An injured worker selecting this option shall receive an actuarially reduced benefit which upon death shall be continued throughout the life of and paid to the surviving spouse, child, or other dependent as the worker has nominated by written designation duly executed and filed with the department.

(c) *Option III.* An injured worker selecting this option shall receive an actuarially reduced benefit and, upon death, one-half of the reduced benefit shall be continued throughout the life of and paid to the surviving spouse, child, or other dependent as the worker has nominated by written designation duly executed and filed with the department.

(2) The worker shall make the election in writing and the worker's spouse, if any, shall consent in writing as a prerequisite to the election of Option I.

(3) The department shall adopt such rules as may be necessary to implement this section.

Sec. 5. Section 51.32.060, chapter 23, Laws of 1961 as last amended by section 159, chapter 3, Laws of 1983 and RCW 51.32.060 are each amended to read as follows:

When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the worker shall receive monthly during the period of such disability:

(1) If married at the time of injury, sixty-five percent of his or her wages but not less than two hundred fifteen dollars per month.

(2) If married with one child at the time of injury, sixty-seven percent of his or her wages but not less than two hundred fifty-two dollars per month.

(3) If married with two children at the time of injury, sixty-nine percent of his or her wages but not less than two hundred eighty-three dollars.

(4) If married with three children at the time of injury, seventy-one percent of his or her wages but not less than three hundred six dollars per month.

(5) If married with four children at the time of injury, seventy-three percent of his or her wages but not less than three hundred twenty-nine dollars per month.

(6) If married with five or more children at the time of injury, seventy-five percent of his or her wages but not less than three hundred fifty-two dollars per month.

(7) If unmarried at the time of the injury, sixty percent of his or her wages but not less than one hundred eighty-five dollars per month.

(8) If unmarried with one child at the time of injury, sixty-two percent of his or her wages but not less than two hundred twenty-two dollars per month.

(9) If unmarried with two children at the time of injury, sixty-four percent of his or her wages but not less than two hundred fifty-three dollars per month.

(10) If unmarried with three children at the time of injury, sixty-six percent of his or her wages but not less than two hundred seventy-six dollars per month.

(11) If unmarried with four children at the time of injury, sixty-eight percent of his or her wages but not less than two hundred ninety-nine dollars per month.

(12) If unmarried with five or more children at the time of injury, seventy percent of his or her wages but not less than three hundred twenty-two dollars per month.

(13) For any period of time where both husband and wife are entitled to compensation as temporarily or totally disabled workers, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(14) In case of permanent total disability, if the character of the injury is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of chapter 51.36 RCW and RCW 51.04.105.

(15) Should any further accident result in the permanent total disability of an injured worker, he or she shall receive the pension to which he or she would be entitled, notwithstanding the payment of a lump sum for his or her prior injury.

(16) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018, except that this limitation shall not apply to the payments provided for in subsection (14) of this section.

(17) The benefits provided by this section are subject to modification under section 4 of this 1986 act.

Sec. 6. Section 51.36.010, chapter 23, Laws of 1961 as last amended by section 56, chapter 350, Laws of 1977 ex. sess. and RCW 51.36.010 are each amended to read as follows:

Upon the occurrence of any injury to a worker entitled to compensation under the provisions of this title, he or she shall receive proper and necessary medical and surgical services at the hands of a physician of his or her own choice, if conveniently located, and proper and necessary hospital care and services during the period of his or her disability from such injury, but the same shall be limited in point of duration as follows:

In the case of permanent partial disability, not to extend beyond the date when compensation shall be awarded him or her, except when the worker returned to work before permanent partial disability award is made, in such case not to extend beyond the time when monthly allowances to him or her shall cease; in case of temporary disability not to extend beyond the time when monthly allowances to him or her shall cease: PROVIDED, That after any injured worker has returned to his or her work his or her medical and surgical treatment may be continued if, and so long as, such continuation is deemed necessary by the supervisor of industrial insurance to be necessary to his or her more complete recovery; in case of a permanent total disability not to extend beyond the date on which a lump sum settlement is made with him or her or he or she is placed upon the permanent pension roll: PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely in his or her discretion, may authorize continued medical and surgical treatment for conditions previously accepted by the department when such medical and surgical treatment is deemed necessary by the supervisor of industrial insurance to protect such worker's life or provide for the administration of medical and therapeutic measures including payment of prescription medications, but not including those controlled substances currently scheduled by the state board of pharmacy as Schedule I, II, III, or IV substances under chapter 69.50 RCW, which are necessary to alleviate continuing pain which results from the industrial injury. In order to authorize such continued treatment the written order of the supervisor of industrial insurance issued in advance of the continuation shall be necessary.

The supervisor of industrial insurance, the supervisor's designee, or a self-insurer, in his or her sole discretion, may authorize inoculation or other immunological treatment in cases in which a work-related activity has resulted in probable exposure of the worker to a potential infectious occupational disease. Authorization of such treatment does not bind the department or self-insurer in any adjudication of a claim by the same worker or the worker's beneficiary for an occupational disease.

NEW SECTION. Sec. 7. Sections 2 and 3 of this act shall take effect on July 1, 1986.

Passed the House February 12, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 59

[Substitute House Bill No. 1875]

INDUSTRIAL INSURANCE—DISABILITY BENEFITS—RETIRED WORKERS

AN ACT Relating to benefits for retired workers and pensioners; amending RCW 51.32.060, 51.32.090, and 51.32.160; reenacting and amending RCW 51.32.090; adding a new section to chapter 51.32 RCW; providing an expiration date; and providing effective dates.

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

Sec. 1. Section 51.32.060, chapter 23, Laws of 1961 as last amended by section 159, chapter 3, Laws of 1983 and RCW 51.32.060 are each amended to read as follows:

When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the worker shall receive monthly during the period of such disability:

(1) If married at the time of injury, sixty-five percent of his or her wages but not less than two hundred fifteen dollars per month.

(2) If married with one child at the time of injury, sixty-seven percent of his or her wages but not less than two hundred fifty-two dollars per month.

(3) If married with two children at the time of injury, sixty-nine percent of his or her wages but not less than two hundred eighty-three dollars.

(4) If married with three children at the time of injury, seventy-one percent of his or her wages but not less than three hundred six dollars per month.

(5) If married with four children at the time of injury, seventy-three percent of his or her wages but not less than three hundred twenty-nine dollars per month.

(6) If married with five or more children at the time of injury, seventy-five percent of his or her wages but not less than three hundred fifty-two dollars per month.

(7) If unmarried at the time of the injury, sixty percent of his or her wages but not less than one hundred eighty-five dollars per month.

(8) If unmarried with one child at the time of injury, sixty-two percent of his or her wages but not less than two hundred twenty-two dollars per month.

(9) If unmarried with two children at the time of injury, sixty-four percent of his or her wages but not less than two hundred fifty-three dollars per month.

(10) If unmarried with three children at the time of injury, sixty-six percent of his or her wages but not less than two hundred seventy-six dollars per month.

(11) If unmarried with four children at the time of injury, sixty-eight percent of his or her wages but not less than two hundred ninety-nine dollars per month.

(12) If unmarried with five or more children at the time of injury, seventy percent of his or her wages but not less than three hundred twenty-two dollars per month.

(13) For any period of time where both husband and wife are entitled to compensation as temporarily or totally disabled workers, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(14) In case of permanent total disability, if the character of the injury is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of chapter 51.36 RCW and RCW 51.04.105.

(15) Should any further accident result in the permanent total disability of an injured worker, he or she shall receive the pension to which he or she would be entitled, notwithstanding the payment of a lump sum for his or her prior injury.

(16) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018, except that this limitation shall not apply to the payments provided for in subsection (14) of this section.

(17) In the case of new or reopened claims, if the supervisor of industrial insurance determines that, at the time of filing or reopening, the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

Sec. 2. Section 51.32.090, chapter 23, Laws of 1961 as last amended by section 6, chapter 462, Laws of 1985 and RCW 51.32.090 are each re-enacted and amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in subsections (1) through (13) of RCW 51.32.060 as amended shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall continue in the proportion which the new earning power shall bear to the old. No compensation shall be payable unless the loss of earning power shall exceed five percent. However, during the period a worker returns to light-duty work, receives disability leave supplement payments pursuant to RCW 41.04.500 through 41.04.530, and is otherwise eligible for compensation under this section, the worker shall continue to receive such compensation at the rate provided under RCW 51.32.060 (1) through (13).

(4) Whenever an employer requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the worker, a statement describing the available work in terms that will enable the physician to relate the physical activities of the job to the worker's disability. The physician shall then determine whether the worker is physically able to perform the work described. If the worker is released by his or her physician for said work, and the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

Once the worker returns to work under the terms of this subsection, he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's physician.

In the event of any dispute as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(6) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages. This limitation does not apply to disability leave supplement payments made pursuant to RCW 41.04.500 through 41.04.530.

(7) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018.

(8) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

Sec. 3. Section 51.32.090, chapter 23, Laws of 1961 as last amended by section 1, chapter 129, Laws of 1980 and RCW 51.32.090 are each amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in subdivisions (1) through (13) of RCW 51.32.060 as amended shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall continue in the proportion which the new earning power shall bear to the old. No compensation shall be payable unless the loss of earning power shall exceed five percent.

(4) Whenever an employer requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician as

able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the worker, a statement describing the available work in terms that will enable the physician to relate the physical activities of the job to the worker's disability. The physician shall then determine whether the worker is physically able to perform the work described. If the worker is released by his or her physician for said work, and the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

Once the worker returns to work under the terms of this subsection, he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's physician.

In the event of any dispute as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury: **PROVIDED**, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(6) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages.

(7) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018.

(8) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

Sec. 4. Section 51.32.160, chapter 23, Laws of 1961 as amended by section 1, chapter 192, Laws of 1973 1st ex. sess. and RCW 51.32.160 are each amended to read as follows:

If aggravation, diminution, or termination of disability takes place or be discovered after the rate of compensation shall have been established or

compensation terminated, in any case the director, through and by means of the division of industrial insurance, may, upon the application of the beneficiary, made within seven years after the establishment or termination of such compensation, or upon his own motion, readjust for further application the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment: PROVIDED, That the time limitation of this section shall be ten years in claims involving loss of vision or function of the eyes.

If a worker receiving a pension for total disability returns to gainful employment for wages, the director may suspend or terminate the rate of compensation established for the disability without producing medical evidence that shows that a diminution of the disability has occurred.

No act done or ordered to be done by the director, or the department prior to the signing and filing in the matter of a written order for such readjustment shall be ground for such readjustment.

NEW SECTION. Sec. 5. A new section is added to chapter 51.32 RCW to read as follows:

(1) For persons receiving compensation for temporary or permanent total disability under this title, the compensation shall be reduced by the department to allow an offset for social security retirement benefits payable under the federal social security, old age survivors, and disability insurance act, 42 U.S.C. This reduction shall not apply to any worker who is receiving permanent total disability benefits prior to the effective date of this section.

(2) Reductions for social security retirement benefits under this section shall comply with the procedures in RCW 51.32.220 (1) through (6), except those that relate to computation, and with any other procedures established by the department to administer this section.

(3) Any reduction in compensation made under chapter ... (House Bill No. 1873), Laws of 1986, shall be made before the reduction established in this section.

NEW SECTION. Sec. 6. Section 2 of this act shall expire on June 30, 1989. Section 3 of this act shall take effect on June 30, 1989. Section 5 of this act shall take effect on July 1, 1986.

Passed the House February 12, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 60

[Engrossed House Bill No. 1398]

USURY—INTEREST RATE CALCULATION BY STATE TREASURER—
PUBLICATION IN STATE REGISTER

AN ACT Relating to publication of interest rates; amending RCW 34.08.020; adding a new section to chapter 19.52 RCW; and adding a new section to chapter 63.14 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 19.52 RCW to read as follows:

Each month the state treasurer shall compute the highest rate of interest permissible under RCW 19.52.020(1) for the succeeding calendar month. The treasurer shall file this rate with the state code reviser for publication in the next available issue of the Washington State Register in compliance with RCW 34.08.020(8).

NEW SECTION. Sec. 2. A new section is added to chapter 63.14 RCW to read as follows:

On or before December 5th of each year the state treasurer shall compute the maximum service charge allowed under a retail installment contract or charge agreement under RCW 63.14.130(1)(a) for the succeeding calendar year. The treasurer shall file this charge with the state code reviser for publication in the first issue of the Washington State Register for the succeeding calendar year in compliance with RCW 34.08.020(8).

Sec. 3. Section 8, chapter 2, Laws of 1983 and RCW 34.08.020 are each amended to read as follows:

There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) (a) The full text of any proposed new or amendatory rule, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(b) The small business economic impact statement, if required by RCW 19.85.030, preceding the full text of the proposed new or amendatory rule;

- (2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;
- (3) Executive orders and emergency declarations of the governor;
- (4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;
- (5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification;
- (6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register; ((and))
- (7) Juvenile disposition standards and security guidelines proposed and adopted under RCW 13.40.030; and

(8) The maximum allowable rates of interest and retail installment contract service charges filed by the state treasurer under sections 1 and 2 of this act. In addition, the highest rate of interest permissible for the current month and the maximum retail installment contract service charge for the current year shall be published in each issue of the register. The publication of the maximum allowable interest rate established pursuant to section 1 of this act shall be accompanied by the following advisement: NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

Passed the House February 13, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 61

[Engrossed House Bill No. 1345]

JOINT LEGISLATIVE SYSTEMS COMMITTEE—INFORMATION PROCESSING AND COMMUNICATION SYSTEMS OVERSIGHT

AN ACT Relating to the legislative systems committee; adding a new section to chapter 43.105 RCW; adding a new chapter to Title 44 RCW; creating a new section; repealing RCW 1.08.100; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administrative committee" means the legislative systems administrative committee created under section 3 of this act.

(2) "Center" means the joint legislative service center established under section 6 of this act.

(3) "Coordinator" means the legislative systems coordinator employed under section 4 of this act.

(4) "Systems committee" means the joint legislative systems committee created under section 2 of this act.

NEW SECTION. Sec. 2. (1) The joint legislative systems committee is created to oversee the direction of the information processing and communications systems of the legislature and to enforce the policies, procedures, and standards established under this chapter. The systems committee consists of eight members as follows:

- (a) The speaker of the house of representatives;
- (b) The minority leader of the house of representatives;
- (c) A member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives;
- (d) The majority leader of the senate;
- (e) The minority leader of the senate; and
- (f) A member from each of the two largest caucuses in the senate, appointed by the majority leader of the senate.

(2) The initial members of the systems committee shall be appointed within five days after the effective date of this act, and shall serve until their successors are appointed and qualified in the 1987 regular legislative session. After the initial terms, members shall serve two-year terms, beginning with their appointment in the regular legislative session held in an odd-numbered year and continuing until their successors are appointed and qualified. In case of a vacancy, the original appointing authority shall appoint another member of the same party as the vacating member.

(3) The systems committee shall choose its own presiding officer and other necessary officers from among its membership, and shall make rules for orderly procedure.

NEW SECTION. Sec. 3. (1) The legislative systems administrative committee is created to manage the information processing and communications systems of the legislature. The administrative committee consists of five members appointed as follows:

- (a) The secretary of the senate, and another senate staff person appointed by and serving at the pleasure of the secretary;
- (b) The chief clerk of the house of representatives, and another house of representatives staff person appointed by and serving at the pleasure of the chief clerk; and
- (c) The code reviser, or the code reviser's designee, serving in a non-voting capacity.

(2) The coordinator shall serve as the secretary of the administrative committee.

NEW SECTION. Sec. 4. (1) The systems committee, after consultation with the administrative committee, shall employ a legislative systems coordinator. The coordinator shall serve at the pleasure of the systems committee, which shall fix the coordinator's salary.

(2) The coordinator shall serve as the executive and administrative head of the center, and shall assist the administrative committee in managing the information processing and communications systems of the legislature as directed by the administrative committee.

NEW SECTION. Sec. 5. The administrative committee shall, subject to the approval of the systems committee:

(1) Adopt policies, procedures, and standards regarding the information processing and communications systems of the legislature;

(2) Establish appropriate charges for services, equipment, and publications provided by the legislative information processing and communications systems, applicable to legislative and nonlegislative users as determined by the administrative committee;

(3) Employ or engage and fix the compensation for personnel required to carry out the purposes of this chapter;

(4) Enter into contracts for (a) the sale, exchange, or acquisition of equipment, supplies, services, and facilities required to carry out the purposes of this chapter and (b) the distribution of legislative information;

(5) Generally assist the systems committee in carrying out its responsibilities under this chapter, as directed by the systems committee.

NEW SECTION. Sec. 6. (1) The administrative committee, subject to the approval of the systems committee, shall establish a joint legislative service center. The center shall provide automatic data processing services, equipment, training, and support to the legislature and legislative agencies. The center may also, by agreement, provide services to agencies of the judicial and executive branch. All operations of the center shall be subject to the general supervision of the administrative committee in accordance with the policies, procedures, and standards established under section 5 of this act.

(2) Except as provided otherwise in subsection (3) of this section, determinations regarding the security, disclosure, and disposition of information placed or maintained in the center shall rest solely with the originator and shall be made in accordance with any law regulating the disclosure of such information. The originator is the person who directly places information in the center.

(3) When utilizing the center to carry out the bill drafting functions required under RCW 1.08.027, the code reviser shall be considered the originator as defined in section 6 of this 1986 act. However, determinations regarding the security, disclosure, and disposition of drafts placed or maintained in the center shall be made by the person requesting the code reviser's services and the code reviser, acting as the originator, shall comply

with and carry out such determinations as directed by that person. A measure once introduced shall not be considered a draft under this subsection.

NEW SECTION. Sec. 7. The legislative systems revolving fund is established in the custody of the state treasurer. All moneys received by the systems committee, the administrative committee, and the center shall be deposited in the fund. Moneys in the fund may be spent only for expenses approved by the systems committee for the purposes of this chapter. Disbursements from the fund shall be on vouchers signed by both the presiding officer of the systems committee and the coordinator. No appropriation is required for disbursements from the fund. The senate and house of representatives may transfer moneys appropriated for legislative expenses to the fund, in addition to charges made under section 5(2) of this act.

NEW SECTION. Sec. 8. The information and communications functions of the legislature and legislative agencies are subject to the requirements of this chapter, and the standards, policies, and procedures established under this chapter.

NEW SECTION. Sec. 9. Members of the systems committee and of the administrative committee shall be reimbursed for travel expenses under RCW 44.04.120 or 43.03.050 and 43.03.060, as appropriate, while attending meetings of their respective committees or on other official business authorized by their respective committees.

NEW SECTION. Sec. 10. A new section is added to chapter 43.105 RCW to read as follows:

The senate, the house of representatives, legislative agencies, and the statute law committee are exempt from the provisions of this chapter. However, the authority may provide its services to the senate, the house of representatives, legislative agencies, or the statute law committee at the request of the systems committee created by section 1 of this act.

NEW SECTION. Sec. 11. All powers, duties, and functions of the statute law committee performed through the legislative information system are transferred to the legislative systems administrative committee to be performed through the joint legislative service center. All reports, documents, books, records, files, papers, data, media, and other materials in the possession of the legislative information system shall be transferred to the joint legislative service center. All cabinets, furniture, equipment, and other property used by the legislative information system shall be made available to the joint legislative service center. All existing contracts and obligations of the statute law committee for the legislative information system shall remain in full force and shall be performed by the administrative committee through the joint legislative service center. All employees of the statute law committee assigned to the legislative information system are transferred to the jurisdiction of the legislative systems administrative committee to perform their usual duties upon the same terms as before the transfer. The

transfer of powers, duties, and functions under this section shall not affect the validity of any act performed by any employee of the statute law committee before the effective date of this act. All moneys appropriated to the statute law committee for the operation of the legislative information system that remain unspent on the effective date of this act, shall be transferred to the legislative systems revolving fund created in section 7 of this act: **PROVIDED**, That all computer services needed by the statute law committee for the remainder of the 1985-87 fiscal biennium, for service levels originally approved by the legislature, shall be provided to the statute law committee by the legislative service center, and thereafter the legislative service center shall charge the statute law committee for computer services pursuant to section 5(2) of this act. If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management, after consultation with the chairs of the house and senate ways and means committees, shall make a determination as to the proper allocation and certify the same to the entities concerned and to the state auditor. 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. 12. Sections 1 through 9 of this act shall constitute a new chapter in Title 44 RCW.

NEW SECTION. Sec. 13. Section 5, chapter 212, Laws of 1969 ex. sess. and RCW 1.08.100 are each repealed.

NEW SECTION. Sec. 14. Sections 1 through 10 and section 12 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remaining sections of this act shall take effect on July 1, 1986.

Passed the House February 12, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 62

[Engrossed House Bill No. 1362]

WASHINGTON CAUGHT FISH—MARKETING AND PROMOTION

AN ACT Relating to Washington caught fish and marketing; and creating a new section.

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

NEW SECTION. Sec. 1. Washington's fisheries produce high quality products which are sold throughout the world. The fishing industry will benefit from improved promotion and increased product marketing. This

will result in higher prices to persons in the fishing industry, improved product quality to the consumer, and increased state employment.

The department of agriculture, in conjunction with the department of fisheries and the department of trade and economic development, shall examine and report on the means by which the state may promote and assist in marketing Washington caught fish. For each of those means with the greatest potential for assisting such marketing, the department shall design a marketing plan, project the effectiveness of the plan, and estimate the cost of implementing each plan. Separate plans shall be prepared for each of Washington's major fisheries, including, but not limited to, bottomfish, salmon, mollusks, and crustaceans. To assist in preparing the plans, the department shall appoint advisory committees to represent each major fishery. The advisory committees shall include representatives of Indian and non-Indian fisheries, processors, wholesalers, and individuals knowledgeable in the field of fish marketing.

During the preparation of these plans, the department shall consult the agriculture committees of the house of representatives and senate. By December 1, 1986, the department shall report to the legislature its findings and alternative plans, along with estimates of costs and effectiveness, including identification of any needed legislation needed to implement the plans.

Passed the House February 13, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 63

[House Bill No. 1424]

ESTATE TAX APPORTIONMENT

AN ACT Relating to estate tax apportionment; and adding a new chapter to Title 83 RCW.

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

NEW SECTION. Sec. 1. DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;

(2) "Fiduciary" means executor, administrator of any description, and trustee;

(3) "Person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(4) "Person interested in the estate" means any person, including a personal representative, guardian, or trustee, entitled to receive, or who has received, from a decedent while alive or by reason of the death of a decedent any property or interest therein included in the decedent's taxable estate;

(5) "State" means any state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; and

(6) "Tax" means the federal estate tax and the estate tax payable to this state and interest and penalties imposed in addition to the tax.

NEW SECTION. Sec. 2. APPORTIONMENT. Except as provided in section 9 of this act and unless the will otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment shall be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax shall be used for that purpose.

NEW SECTION. Sec. 3. PROCEDURE FOR DETERMINING APPORTIONMENT. (1) The court having jurisdiction over the administration of the estate of a decedent shall determine the apportionment of the tax. If there are no probate proceedings, the court of the county wherein the decedent was domiciled at death shall determine the apportionment of the tax upon the application of the person required to pay the tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in this chapter because of special circumstances, it may direct apportionment thereon in the manner it finds equitable.

(3) The expenses reasonably incurred by any fiduciary and by other persons interested in the estate in connection with the determination of the amount and apportionment of the tax shall be apportioned as provided in section 2 of this act and charged and collected as a part of the tax apportioned. If the court finds it is inequitable to apportion the expenses as provided in section 2 of this act, it may direct apportionment thereof equitably.

(4) If the court finds that the assessment of penalties and interest is due to delay caused by the negligence of the fiduciary, the court may charge the fiduciary with the amount of the assessed penalties and interest.

(5) In any suit or judicial proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this chapter, the determination of the court in respect thereto is prima facie correct.

NEW SECTION. Sec. 4. METHOD OF PRORATION. (1) The fiduciary or other person required to pay the tax may withhold from any property of the decedent in his or her possession, distributable to any person interested in the estate, the amount of tax attributable to his or her interest.

If the property in possession of the fiduciary or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the fiduciary or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the fiduciary or other person required to pay the tax, the fiduciary or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this chapter.

(2) If property held by the fiduciary or other person is distributed prior to final apportionment of the tax, the fiduciary or other person may require the distributee to provide a bond or other security for the apportionment liability in the form and amount prescribed by the fiduciary, with the approval of the court having jurisdiction of the administration of the estate.

NEW SECTION. Sec. 5. ALLOWANCE FOR EXEMPTIONS, DEDUCTIONS, AND CREDITS. (1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate, and any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing that relationship or receiving the gift. When an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or the decedent's estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession, or estate taxes or taxes in the nature thereof in respect to property or interests includable in the estate inures to the benefit of the persons or interests chargeable with the payment thereof to the extent that or in proportion that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public, or similar gift or bequest does not constitute an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property shall not be included in the computation provided for in this chapter, and to that extent no apportionment shall be made against the property. This does not apply in any instance where the result under section 2053(d) of the Internal Revenue Code of 1954 of the United States relates to deduction for state death taxes on transfers for public, charitable, or religious uses.

NEW SECTION. Sec. 6. APPORTIONMENT BETWEEN TEMPORARY AND REMAINDER INTERESTS. No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

NEW SECTION. Sec. 7. EXONERATION OF FIDUCIARY. Neither the fiduciary nor other person required to pay the tax is under any duty to institute any suit or proceeding to recover from any person interested in the estate the amount of the tax apportioned to that person until the expiration of the three months next following final determination of the tax. A fiduciary or other person required to pay the tax who institutes the suit or proceeding within a reasonable time after the three months' period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the fiduciary or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be paid from the residuary estate. To the extent that the residuary estate is not adequate, the balance shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

NEW SECTION. Sec. 8. ACTION BY NONRESIDENT—RECIPROCITY. Subject to this section a fiduciary acting in another state or a person required to pay the tax who is domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax or an estate tax payable to another state or of a death duty due by a decedent's estate to another state from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct. The provisions of this section apply only if the state in which the determination of apportionment was made affords a substantially similar remedy.

NEW SECTION. Sec. 9. COORDINATION WITH FEDERAL LAW. If the liabilities of persons interested in the estate as prescribed by this chapter differ from those which result under the Federal Estate tax law, the liabilities imposed by the federal law will control and the balance of this chapter shall apply as if the resulting liabilities had been prescribed in this

chapter. Nothing in this chapter affects the right of a personal representative to recover payments due an estate pursuant to the provisions of section 2207A of the Internal Revenue Code of 1954.

NEW SECTION. Sec. 10. **UNIFORMITY OF INTERPRETATION.** This chapter shall be construed to effectuate its general purpose to make uniform the law of those states which enact it.

NEW SECTION. Sec. 11. **SHORT TITLE.** This chapter may be cited as the uniform estate tax apportionment act.

NEW SECTION. Sec. 12. **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. 13. **CAPTIONS.** As used in this chapter, section captions constitute no part of the law.

NEW SECTION. Sec. 14. **APPLICATION.** This chapter does not apply to taxes due on account of the death of decedents dying prior to January 1, 1987.

NEW SECTION. Sec. 15. **LEGISLATIVE DIRECTIVE.** Sections 1 through 14 of this act shall constitute a new chapter in Title 83 RCW.

Passed the House February 13, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 64

[Engrossed House Bill No. 1459]

DRIVING WHILE INTOXICATED—IMPLIED CONSENT

AN ACT Relating to implied consent warnings in cases of driving while intoxicated; and amending RCW 46.20.308 and 46.61.517.

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

Sec. 1. Section 11, chapter 260, Laws of 1981 as last amended by section 3, chapter 407, Laws of 1985 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 chemical test or tests of his or her breath or blood for the purpose of determining the alcoholic content of his or her 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 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. The officer shall inform the person of his or her right to refuse the 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 (~~against him or her~~) in a (~~subsequent~~) criminal trial.

(3) Except as provided in this subsection and subsection (4) of this section, the chemical 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 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 chemical test of his or her breath, 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 had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that refusal would result in the revocation of his privilege to drive, shall revoke his 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 right to a hearing, specifying

the steps he must take to obtain a hearing. Within ten days after receiving such notice 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 upon the public highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation of his 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 in which he or she resides, or, if a non-resident of this state, where the charge arose, 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. 2. Section 27, chapter 165, Laws of 1983 as amended by section 21, chapter 352, Laws of 1985 and RCW 46.61.517 are each amended to read as follows:

The refusal of a person to submit to a test of the alcoholic content of his blood under RCW 46.20.308 is admissible into evidence at a subsequent criminal trial ((without any comment)).

Passed the House February 13, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 65

[House Bill No. 1602]

PUBLIC TIMBER SALES—TIMBER SOLD SEPARATELY FROM LAND—
PROPERTY TAX

AN ACT Relating to public timber sales and property tax; and amending RCW 84.33.078.

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

Sec. 1. Section 9, chapter 62, Laws of 1983 1st ex. sess. as amended by section 22, chapter 204, Laws of 1984 and RCW 84.33.078 are each amended to read as follows:

When any timber standing on public land, other than federally owned land, is sold separate from the land, the department of natural resources or other governmental unit, as appropriate, shall (~~provide each bidder with a written notice clearly stating~~) state in its notice of the sale or prospectus that timber sold separate from the land is subject to property tax ((in 1984 and thereafter)) and that the amount of the tax paid may be used as a credit against any tax imposed with respect to business of harvesting timber from publicly owned land under RCW 84.33.041.

Passed the House January 28, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 66

[Substitute House Bill No. 1866]

STATE FERRY SYSTEM—FUNDS AND ACCOUNTS

AN ACT Relating to the state ferry system; amending RCW 46.61.100, 47.60.150, 47.60.400, 47.60.420, 47.60.430, 47.60.440, 47.60.450, 47.60.500, 47.60.505, 47.60.550, and 47.60.620; creating a new section; repealing RCW 47.60.350, 47.60.360, 47.60.370, 47.60.380, 47.60.390, 47.60.410, and 47.60.504; and providing an effective date.

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

Sec. 1. Section 46.68.100, chapter 12, Laws of 1961 as last amended by section 73, chapter 7, Laws of 1984 and RCW 46.68.100 are each amended to read as follows:

From the net tax amount in the motor vehicle fund there shall be paid monthly as funds accrue the following sums:

(1) To the cities and towns, to be distributed as provided by RCW 46.68.110, sums equal to six and ninety-two hundredths percent of the net tax amount;

(2) To the cities and towns, to be expended as provided by RCW 46.68.115, sums equal to four and sixty-one hundredths percent of the net tax amount;

(3) To the counties, sums equal to twenty-two and seventy-eight hundredths percent of the net tax amount out of which there shall be distributed from time to time, as directed by the department of transportation, those sums as may be necessary to carry out the provisions of RCW 47.56.725, with the balance of such county share to be distributed monthly as the same accrues for distribution in accordance with RCW 46.68.120;

(4) To the urban arterial trust account in the motor vehicle fund, sums equal to seven and twelve hundredths percent of the net tax amount;

(5) To the state, to be expended as provided by RCW 46.68.130, sums equal to forty-five and twenty-six hundredths percent of the net tax amount;

(6) To the state, to be expended as provided by RCW 46.68.150 as now or hereafter amended, sums equal to six and ninety-five hundredths percent of the net tax amount;

(7) To the Puget Sound ((~~reserve~~)) capital construction account in the motor vehicle fund sums equal to three and twenty-one hundredths percent of the net tax amount;

(8) To the Puget Sound ferry operations account in the motor vehicle fund sums equal to three and fifteen hundredths percent of the net tax amount.

Nothing in this section or in RCW 46.68.090 or 46.68.130 may be construed so as to violate any terms or conditions contained in any highway construction bond issues now or hereafter authorized by statute and whose payment is by such statute pledged to be paid from any excise taxes on motor and special vehicle fuels.

Sec. 2. Section 47.60.150, chapter 13, Laws of 1961 as last amended by section 135, chapter 3, Laws of 1983 and RCW 47.60.150 are each amended to read as follows:

Subject to the provisions of RCW 47.60.326, the schedule of charges for the services and facilities of the system shall be fixed and revised from time to time by the commission so that the tolls and revenues collected together with any moneys in the Puget Sound ferry operations account appropriated for maintenance and operation, and all moneys in the Puget Sound ((~~reserve~~)) capital construction account available for debt service will yield annual revenue and income sufficient, after allowance for all operating, maintenance, and repair expenses to pay the interest and principal and sinking fund charges for all outstanding revenue bonds, and to create and maintain a fund for ordinary renewals and replacements: PROVIDED, That if provision is made by any resolution for the issuance of revenue bonds for the creation and maintenance of a special fund for rehabilitating, rebuilding, enlarging, or improving all or any part of the ferry

system then such schedule of tolls and rates of charges shall be fixed and revised so that the revenue and income will also be sufficient to comply with such provision.

All income and revenues as collected shall be paid to the state treasurer for the account of the department as a separate trust fund and to be segregated and disbursed upon order of the department: PROVIDED, That the fund so segregated and set apart for the payment of the revenue bonds may be remitted to and held by a designated trustee in such manner and with such collateral as may be provided in the resolution authorizing the issuance of said bonds.

Sec. 3. Section 1, chapter 9, Laws of 1961 ex. sess. and RCW 47.60-.400 are each amended to read as follows:

The Washington toll bridge authority is authorized to issue revenue bonds to refund all or any part of the authority's outstanding 1955 Washington state ferry system refunding revenue bonds and 1957 ferry and Hood Canal bridge revenue bonds(~~(, and may issue additional revenue bonds in parity therewith to pay cost of improving the Washington state ferry system or constructing or improving transportation facilities for the crossing of Puget Sound and any of its tributary waters and connections thereof other than bridging from the east side of Puget Sound to the Kitsap Peninsula, Vashon Island or Bainbridge Island. PROVIDED, That the toll bridge authority shall not issue any such additional revenue bonds without further express authorization by the legislature)~~). With respect to the issuing of such bonds and the payment of principal and interest thereon, the payment into reserves, sinking funds, (~~(and the ferry improvement fund established in connection therewith,)~~) and the fixing and revision of charges for services and facilities of the system, and in managing all its fiscal operations, the authority shall have all the powers and shall follow the same procedures established for it under existing laws, except as otherwise provided herein.

Sec. 4. Section 3, chapter 9, Laws of 1961 ex. sess. as amended by section 330, chapter 7, Laws of 1984 and RCW 47.60.420 are each amended to read as follows:

To the extent that all revenues from the Washington state ferry system and the Hood Canal bridge available therefor are insufficient to provide for the payment of principal and interest on the bonds authorized and issued under RCW 47.60.400 through 47.60.470 and for sinking fund requirements established with respect thereto and for payment into such reserves as the department has established with respect to the securing of the bonds (~~(and for payment into the ferry improvement fund)~~), there is imposed a first and prior charge against the Puget Sound (~~(reserve)~~) capital construction account of the motor vehicle fund created by RCW (~~(47.60.350~~

through ~~47.60.390~~) 47.60.505 and, to the extent required, against all revenues required by RCW 46.68.100 to be deposited in the Puget Sound (~~(reserve)~~) capital construction account.

To the extent that the revenues from the Washington state ferry system and the Hood Canal bridge available therefor are insufficient to meet required payments of principal and interest on bonds, sinking fund requirements, and payments into reserves (~~(and the payments into the ferry improvement fund provided in RCW 47.60.410)~~), the department shall use moneys in the Puget Sound (~~(reserve)~~) capital construction account for such purpose. Any moneys from the Puget Sound (~~(reserve)~~) capital construction account used by the department to pay the obligations shall be repaid by the department to the motor vehicle fund from tolls of the Washington state ferry system and the Hood Canal bridge, and tolls shall be continued for any required additional length of time necessary for this purpose.

Sec. 5. Section 4, chapter 9, Laws of 1961 ex. sess. and RCW 47.60.430 are each amended to read as follows:

So long as any bonds issued as authorized herein are outstanding, the state hereby agrees to continue to impose (~~(the)~~) at least one-quarter cent of motor vehicle fuel tax and one-quarter cent of (~~(use)~~) special fuel tax required by law (~~(to be deposited)~~) and to deposit the proceeds of these taxes in the Puget Sound (~~(reserve)~~) capital construction account of the motor vehicle fund.

Sec. 6. Section 5, chapter 9, Laws of 1961 ex. sess. as last amended by section 139, chapter 3, Laws of 1983 and RCW 47.60.440 are each amended to read as follows:

The Washington state ferry system shall be efficiently managed, operated, and maintained as a revenue-producing undertaking. Subject to the provisions of RCW 47.60.326 the commission shall maintain and revise from time to time as necessary a schedule of tolls and charges on said ferry system and Hood Canal bridge which together with any moneys in the Puget Sound ferry operations account appropriated for maintenance and operation and all moneys in the Puget Sound (~~(reserve)~~) capital construction account available for debt service will produce net revenue available for debt service, in each fiscal year, in an amount at least equal to minimum annual debt service requirements as hereinafter provided. Minimum annual debt service requirements as used in this section shall include required payments of principal and interest, sinking fund requirements, and payments into reserves on all outstanding revenue bonds authorized by RCW 47.60.400 through 47.60.470 (~~(and all other outstanding parity bonds hereafter issued in connection with the said ferry system and Hood Canal bridge and any other facility hereafter constructed by the department to facilitate the crossing of Puget Sound, but shall not include payments into the ferry improvement fund)~~).

The provisions of law relating to the revision of tolls and charges to meet minimum annual debt service requirements from net revenues as required by this section shall be binding upon the commission but shall not be deemed to constitute a contract to that effect for the benefit of the holders of such bonds.

Sec. 7. Section 6, chapter 9, Laws of 1961 ex. sess. as amended by section 331, chapter 7, Laws of 1984 and RCW 47.60.450 are each amended to read as follows:

If the net revenue together with all moneys in the Puget Sound ((~~re-~~serve)) capital construction account available for debt service in any fiscal year fail to meet minimum annual debt service for the year, as defined in RCW 47.60.440, the commission shall promptly revise the tolls and charges after considering supporting data and recommendations therefor which shall be furnished by a nationally recognized traffic engineering firm retained by the commission in the manner provided in the bond proceedings.

Tolls and charges shall not be increased in any case when in the opinion of the engineering firm the increase would so reduce traffic that no net gain in revenue would result. This section is a covenant for the benefit of the holders of the bonds.

Sec. 8. Section 1, chapter 85, Laws of 1970 ex. sess. as amended by section 333, chapter 7, Laws of 1984 and RCW 47.60.500 are each amended to read as follows:

(1) The legislature finds that the state's ferry fleet available for mass transportation of people within the urban region of Puget Sound is critically deficient and that substantial financial assistance for the acquisition of new ferries is necessary if the Washington state ferries is to continue to fulfill its role in the Puget Sound regional urban transportation system.

(2) The department is authorized:

(a) To apply to the United States secretary of transportation for a financial grant to assist the state to acquire urgently needed ferries;

(b) To enter into an agreement with the United States secretary of transportation or other duly authorized federal officials and to assent to such conditions as may be necessary to obtain financial assistance for the acquisition of additional ferries. In connection with the agreement the department may pledge any moneys in the Puget Sound capital construction account, not required for debt service, in the motor vehicle fund or any moneys to be deposited in the account for the purpose of paying the state's share of the cost of acquiring ferries. To the extent of the pledge the department shall use the moneys available in the Puget Sound capital construction account to meet the obligations as they arise.

Sec. 9. Section 2, chapter 85, Laws of 1970 ex. sess. as last amended by section 3, chapter 27, Laws of 1979 and RCW 47.60.505 are each amended to read as follows:

There is hereby created in the motor vehicle fund the Puget Sound capital construction account. All moneys hereafter deposited in said account shall be used by the department of transportation for:

(1) Reimbursing the motor vehicle fund for all transfers therefrom made in accordance with RCW 47.60.620; and

(2) Improving the Washington state ferry system including, but not limited to, vessel acquisition, vessel construction, major and minor vessel improvements, terminal construction and improvements, and reconstruction or replacement of, and improvements to, the Hood Canal bridge, reimbursement of the motor vehicle fund for any state funds, other than insurance proceeds, expended therefrom for reconstruction or replacement of and improvements to the Hood Canal bridge, pursuant to proper appropriations: PROVIDED, That any funds accruing to the Puget Sound capital construction account after June 30, 1979, which are not required to reimburse the motor vehicle fund pursuant to RCW 47.60.620 as such obligations come due nor are required for capital improvements of the Washington state ferries pursuant to appropriations therefor shall from time to time as shall be determined by the department of transportation be transferred by the state treasurer to the Puget Sound ferry operations account in the motor vehicle fund.

(3) The department may pledge any moneys in the Puget Sound capital construction account or to be deposited in that account to guarantee the payment of principal or interest on bonds issued to refund the outstanding 1955 Washington state ferry system refunding bonds and the 1957 ferry and Hood Canal bridge revenue bonds.

The department may further pledge moneys in the Puget Sound capital construction account to meet any sinking fund requirements or reserves established by the department with respect to any bond issues provided for in this section.

To the extent of any pledge authorized in this section, the department shall use the first moneys available in the Puget Sound capital construction account to meet such obligations as they arise, and shall maintain a balance of not less than one million dollars in the account for this purpose.

(4) The treasurer shall never transfer any moneys from the Puget Sound capital construction account for use by the department for state highway purposes so long as there is due and unpaid any obligations for payment of principal, interest, sinking funds, or reserves as required by any pledge of the Puget Sound capital construction account. Whenever the department has pledged any moneys in the account for the purposes authorized in this section, the state agrees to continue to deposit in the Puget Sound capital construction account the motor vehicle fuel taxes and special fuel taxes as provided in RCW 82.36.020 and 82.38.290 and further agrees that, so long as there exists any outstanding obligations pursuant to such pledge, to continue to impose such taxes.

(5) Funds in the Puget Sound capital construction account of the motor vehicle fund that are not required by the department for payment of principal or interest on bond issues or for any of the other purposes authorized in this chapter may be invested by the department in bonds and obligations of the nature eligible for the investment of current state funds as provided in RCW 43.84.080.

Sec. 10. Section 1, chapter 69, Laws of 1975-'76 2nd ex. sess. as amended by section 335, chapter 7, Laws of 1984 and RCW 47.60.550 are each amended to read as follows:

(1) Whenever a county, city, or other municipal corporation acquires or constructs a facility to be used in whole or in part for off-street parking of motor vehicles which is in the immediate vicinity of an existing or planned ferry terminal, the department may enter into an agreement with the local governmental body providing for the use in part or at specified times of the facility as a holding area for traffic waiting to board a ferry or for parking by ferry patrons.

(2) As a part of an agreement authorized by subsection (1) of this section, the department, subject to the limitations contained in RCW (~~47-60.380~~) 47.60.505, may pledge any moneys in the Puget Sound capital construction account in the motor vehicle fund, or to be deposited in the account, to guarantee the payment of principal and interest on bonds issued by a county, city, or other municipal corporation to finance the acquisition or construction of the parking facility. In making the pledge, the department shall reserve the right to issue its own bonds for the purpose of paying the costs of acquiring ferry vessels with the provision that the bonds shall rank on parity with the bonds authorized by this section as a lien upon moneys in or to be deposited in the Puget Sound capital construction account.

The department shall also reserve the right to pledge moneys in the Puget Sound capital construction account to guarantee subsequent bonds issued by any county, city, or other municipal corporation to finance parking facilities as authorized in subsection (1) of this section with the provision that the subsequent bonds shall rank on parity with prior bonds guaranteed pursuant to this section as a lien upon moneys in or to be deposited in the Puget Sound capital construction account. To the extent of any pledge herein authorized, the department shall use the first moneys available in the Puget Sound capital construction account to meet the obligations as they arise.

Sec. 11. Section 7, chapter 360, Laws of 1977 ex. sess. and RCW 47.60.620 are each amended to read as follows:

Whenever, pursuant to RCW 47.60.600, the state treasurer shall transfer funds from the motor vehicle fund to the ferry bond retirement fund, the state treasurer shall at the same time reimburse the motor vehicle

fund in an identical amount from the Puget Sound capital construction account. After each transfer by the treasurer of funds from the motor vehicle fund to the bond retirement fund and to the extent permitted by RCW 47.60.42C, 47.60.505(3), and 47.60.505(4), the obligation to reimburse the motor vehicle fund as required herein shall constitute a first and prior charge against the funds within and accruing to the Puget Sound capital construction account, including the proceeds of the additional two-tenths of one percent excise tax imposed by RCW 82.44.020, as amended by chapter 332, Laws of 1977 ex. sess. All funds reimbursed to the motor vehicle fund as provided herein shall be distributed to the state for expenditure pursuant to RCW 46.68.130.

NEW SECTION. Sec. 12. The following acts or parts of acts are each repealed:

(1) Section 18, chapter 7, Laws of 1961 ex. sess., section 326, chapter 7, Laws of 1984 and RCW 47.60.350;

(2) Section 19, chapter 7, Laws of 1961 ex. sess., section 5, chapter 85, Laws of 1970 ex. sess. and RCW 47.60.360;

(3) Section 20, chapter 7, Laws of 1961 ex. sess., section 327, chapter 7, Laws of 1984 and RCW 47.60.370;

(4) Section 21, chapter 7, Laws of 1961 ex. sess., section 138, chapter 3, Laws of 1983 and RCW 47.60.380;

(5) Section 22, chapter 7, Laws of 1961 ex. sess., section 328, chapter 7, Laws of 1984 and RCW 47.60.390;

(6) Section 2, chapter 9, Laws of 1961 ex. sess., section 329, chapter 7, Laws of 1984 and RCW 47.60.410; and

(7) Section 1, chapter 184, Laws of 1981 and RCW 47.60.504.

NEW SECTION. Sec. 13. Moneys in the Puget Sound reserve account and ferry improvement fund on the effective date of this act shall be transferred to the Puget Sound capital construction account.

NEW SECTION. Sec. 14. This act shall take effect July 1, 1987. The secretary of transportation may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the House February 13, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 67

[Substitute House Bill No. 1976]

MENTAL ILLNESS—INVOLUNTARY TREATMENT

AN ACT Relating to involuntary treatment; amending RCW 71.05.330, 71.05.280, 71.05.290, 71.05.320, 71.05.340, and 71.05.390; and adding new sections to chapter 71.05 RCW.

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

Sec. 1. Section 38, chapter 142, Laws of 1973 1st ex. sess. and RCW 71.05.330 are each amended to read as follows:

(1) Nothing in this chapter shall prohibit the superintendent or professional person in charge of the hospital or facility in which the person is being involuntarily treated from releasing him prior to the expiration of the commitment period when, in the opinion of the superintendent or professional person in charge, the person being involuntarily treated no longer presents a likelihood of serious harm to others.

Whenever the superintendent or professional person in charge of a hospital or facility providing involuntary treatment pursuant to this chapter releases a person prior to the expiration of ~~((ninety days))~~ the period of commitment, the superintendent or professional person in charge shall in writing notify the court which committed the person for treatment.

(2) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) is released under this section, the superintendent or professional person in charge shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the release date. Notice shall be provided at least thirty days before the release date. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county in which the person is being involuntarily treated for a hearing to determine whether the person is to be released. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and the guardian or conservator of the committed person. The court shall conduct a hearing on the petition within ten days of filing the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be released without substantial danger to other persons, or substantial likelihood of committing felonious acts jeopardizing public safety or security. If the court disapproves of the release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the committed person shall be released or shall be returned for involuntary treatment subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

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. Nothing in this section shall be construed to authorize detention of a person unless a valid order of commitment is in effect.

Sec. 3. Section 33, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 14, chapter 215, Laws of 1979 ex. sess. and RCW 71.05.280 are each amended to read as follows:

At the expiration of the fourteen day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 (~~for an additional period, not to exceed ninety days~~) if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself, or substantial damage upon the property of another, and (b) as a result of mental disorder presents a likelihood of serious harm to others or himself; or

(2) Such person was taken into custody as a result of conduct in which he attempted or inflicted physical harm upon the person of another or himself, and continues to present, as a result of mental disorder, a likelihood of serious harm to others or himself; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.090(3), as now or hereafter amended, and has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. In any proceeding pursuant to this subsection it shall not be necessary to show intent, wilfulness, or state of mind as an element of the felony; or

(4) Such person is gravely disabled.

For the purposes of this chapter "custody" shall mean involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from a facility providing involuntary care and treatment.

Sec. 4. Section 34, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 6, chapter 199, Laws of 1975 1st ex. sess. and RCW 71.05.290 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his professional designee or the designated county mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.090(3) as now existing or hereafter amended, then the professional person in charge of the treatment facility or his professional designee or the county designated mental health professional may directly file a petition for ~~((ninety))~~ one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

Sec. 5. Section 37, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 15, chapter 215, Laws of 1979 ex. sess. 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 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. 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 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 ~~((ninety days))~~ 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, 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 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 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 presents a substantial likelihood of repeating similar acts; 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. 6. Section 39, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 16, chapter 215, Laws of 1979 ex. sess. and RCW 71.05.340 are each amended to read as follows:

(1) (a) When, in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient treatment

prior to or at the expiration of the period of commitment, then such outpatient care may be required as a condition for early release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the conditions for early release shall be given to the patient, the designated county mental health professional in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(b) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) is conditionally released under (a) of this subsection, the superintendent or professional person in charge of the hospital or facility providing involuntary treatment shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision to conditionally release the person. Notice and a copy of the conditions for early release shall be provided at least thirty days before the person is released from inpatient care. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county that issued the commitment order to hold a hearing to determine whether the person may be conditionally released and the terms of the conditional release. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and guardian or conservator of the committed person, and the court of original commitment. If the county in which the committed person is to receive outpatient treatment is the same county in which the criminal charges against the committed person were dismissed, then the court shall, upon the motion of the prosecuting attorney, transfer the proceeding to the court in that county. The court shall conduct a hearing on the petition within ten days of the filing of the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be conditionally released without substantial danger to other persons, or substantial likelihood of committing felonious acts jeopardizing public safety or security. If the court disapproves of the conditional release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the conditional release of the person shall be approved by the court on the same or modified conditions or the person shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

(2) The hospital or facility designated to provide outpatient care or the secretary may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions.

(3) If the hospital or facility designated to provide outpatient care, the designated county mental health professional or the secretary determines that a conditionally released person is failing to adhere to the terms and conditions of his release, then, upon notification by the hospital or facility designated to provide outpatient care, or on his own motion, the designated county mental health professional or the secretary may order that the conditionally released person be apprehended and taken into custody and temporarily detained in an evaluation and treatment facility in or near the county in which he is receiving outpatient treatment until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he had been conditionally released. The designated county mental health professional or the secretary may modify or rescind such order at any time prior to commencement of the court hearing. The court that originally ordered commitment shall be notified within two judicial days of a person's detention under the provisions of this section, and the designated county mental health professional or the secretary shall file his petition and order of apprehension and detention with the court and serve them upon the person detained. His attorney, if any, and his guardian or conservator, if any, shall receive a copy of such papers as soon as possible. Such person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as specifically set forth in this section and except that there shall be no right to jury trial. The issues to be determined shall be whether the conditionally released person did or did not adhere to the terms and conditions of his release; and, if he failed to adhere to such terms and conditions, whether the conditions of release should be modified or the person should be returned to the facility. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he was committed for involuntary treatment, or otherwise in accordance with the provisions of this chapter. Such hearing may be waived by the person and his counsel and his guardian or conservator, if any, but shall not be waivable unless all such persons agree to waive, and upon such waiver the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.

(4) The proceedings set forth in subsection (3) of this section may be initiated by the designated county mental health professional or the secretary on the same basis set forth therein without requiring or ordering the

apprehension and detention of the conditionally released person, in which case the court hearing shall take place in not less than fifteen days from the date of service of the petition upon the conditionally released person.

Upon expiration of the period of commitment, or when the person is released from outpatient care, notice in writing to the court which committed the person for treatment shall be provided.

NEW SECTION. Sec. 7. A new section is added to chapter 71.05 RCW to read as follows:

In any proceeding under this chapter to modify a commitment order of a person committed to inpatient treatment under grounds set forth in RCW 71.05.280(3) or 71.05.320(2)(c) in which the requested relief includes treatment less restrictive than detention, the prosecuting attorney shall be entitled to intervene. The party initiating the motion to modify the commitment order shall serve the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed with written notice and copies of the initiating papers.

Sec. 8. Section 44, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 207, Laws of 1985 and RCW 71.05.390 are each amended to read as follows:

The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his guardian, must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person, not employed by the facility, who does not have the medical responsibility for the patient's care or who is not a designated county mental health professional or who is not involved in providing services under the community mental health services act, chapter 71.24 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing outpatient services to the operator of a care facility in which the patient resides.

(3) When the person receiving services, or his guardian, designates persons to whom information or records may be released, or if the person is a minor, when his parents make such designation.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled.

(5) For program evaluation and/or research: PROVIDED, That the secretary of social and health services adopts rules for the conduct of such evaluation and/or research. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/"

(6) To the courts as necessary to the administration of this chapter.

(7) To law enforcement officers, public health officers, or personnel of the department of corrections or the board of prison terms and paroles for persons who are the subject of the records and who are committed to the custody of the department of corrections or board of prison terms and paroles which information or records are necessary to carry out the responsibilities of their office: PROVIDED, That

(a) Only the fact, place, and date of involuntary admission, the fact and date of discharge, and the last known address shall be disclosed upon request; and

(b) The law enforcement and public health officers or personnel of the department of corrections or board of prison terms and paroles shall be obligated to keep such information confidential in accordance with this chapter; and

(c) Additional information shall be disclosed only after giving notice to said person and his counsel and upon a showing of clear, cogent and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained: PROVIDED HOWEVER, That in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and section 7 of this 1986 act. The prosecutor shall be provided access to records

regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Passed the House February 14, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 68

[House Bill No. 1776]

EMERGENCY MEDICAL PROGRAM DIRECTORS

AN ACT Relating to emergency medical program directors; amending RCW 18.71.205, 18.71.210, and 18.71.215; adding new sections to chapter 18.71 RCW; and declaring an emergency.

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

Sec. 1. Section 3, chapter 55, Laws of 1977 as amended by section 2, chapter 112, Laws of 1983 and RCW 18.71.205 are each amended to read as follows:

(1) The secretary of the department of social and health services, in conjunction with the advice and assistance of the emergency medical services committee as prescribed in RCW 18.73.050, and the board of medical examiners, shall prescribe:

(a) Minimum standards and performance requirements for the certification and recertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics; and

(b) Procedures for certification, recertification, and decertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics.

(2) Initial certification shall be for a period of two years.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period of two years.

(4) As used in chapters 18.71 and 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to chapter 18.71 RCW or osteopathy and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of social and health services for a county or group of counties in coordination with the recommendations of the local medical community and local emergency medical services council.

NEW SECTION. Sec. 2. A new section is added to chapter 18.71 RCW to read as follows:

The secretary of the department of social and health services, in conjunction with the state emergency medical services committee, shall evaluate, certify and terminate certification of medical program directors, and prescribe minimum standards defining duties and responsibilities and performance of duties and responsibilities.

NEW SECTION. Sec. 3. A new section is added to chapter 18.71 RCW to read as follows:

If a medical program director terminates certification, that medical program director's authority may be delegated by the department to any other licensed physician for a period of thirty days, or until a new medical program director is certified, whichever comes first.

Sec. 4. Section 3, chapter 305, Laws of 1971 ex. sess. as last amended by section 3, chapter 112, Laws of 1983 and RCW 18.71.210 are each amended to read as follows:

No act or omission of any physician's trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician, as defined in RCW 18.71.200 as now or hereafter amended, or of any

emergency medical technician as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who (~~is in imminent danger of loss of life or~~) has suffered (~~(grievous)~~) illness or bodily injury shall impose any liability upon:

- (1) The trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician;
- (2) The medical program director;
- (3) The supervising physician(s);
- (4) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;
- (5) Any training agency or training physician(s);
- (6) Any licensed ambulance service; or
- (7) ((~~A~~)) Any federal, state, county, city or other local governmental unit or employees of such a governmental unit.

This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician, as the case may be.

This section shall not relieve a physician or a hospital of any duty otherwise imposed by law upon such physician or hospital for the designation or training of a physician's trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician, nor shall this section relieve any individual or other entity listed in this section of any duty otherwise imposed by law for the provision or maintenance of equipment to be used by the physician's trained mobile intensive care paramedics, intravenous therapy technicians, or airway management technicians.

This section shall not apply to any act or omission which constitutes either gross negligence or wilful or wanton conduct.

Sec. 5. Section 4, chapter 112, Laws of 1983 and RCW 18.71.215 are each amended to read as follows:

The department of social and health services shall defend and hold harmless approved medical program directors, delegates, or agents for any act or omission committed or omitted in good faith in the performance of (~~(administrative nonmedical procedures for certification, recertification, and decertification of physician's trained mobile intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics)~~) his or her duties.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

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

Passed the House February 14, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 69

[Substitute House Bill No. 2011]

INSURANCE AGENTS, SOLICITORS, BROKERS—FUNDS REPRESENTING PREMIUMS OR RETURN PREMIUMS—SEPARATE FUNDS

AN ACT Relating to funds of insurance brokers, agents, and solicitors; adding a new section to chapter 48.17 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 48.17 RCW to read as follows:

(1) All funds representing premiums or return premiums received by an agent, solicitor or broker in his or her fiduciary capacity shall be accounted for and maintained in a separate account from all other business and personal funds.

(2) An agent, solicitor or broker shall not commingle or otherwise combine premiums with any other moneys, except as provided in subsection (3) of this section.

(3) An agent, solicitor or broker may commingle with premium funds any additional funds as he or she may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return premiums, or for any contingencies as may arise in his or her business of receiving and transmitting premium or return premium funds.

(4) Each wilful violation of this section shall constitute a misdemeanor.

NEW SECTION. Sec. 2. This act shall take effect on January 1, 1987.

Passed the House February 17, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 70

[Engrossed Substitute House Bill No. 1892]

TELECOMMUNICATION SERVICES—TAXATION BY CITIES

AN ACT Relating to the taxation of telecommunications services by cities; amending RCW 35.21.714 and 35A.82.060; adding new sections to chapter 35.21 RCW; adding new sections to chapter 35A.82 RCW; and providing an effective date.

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

Sec. 1. Section 10, chapter 144, Laws of 1981 as amended by section 37, chapter 3, Laws of 1983 2nd ex. sess. and RCW 35.21.714 are each amended to read as follows:

Any city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.04.065, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from intrastate toll telephone services subject to the fee or tax: PROVIDED, That the city shall not impose the fee or tax on that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services ((for which rates are contained in tariffs filed with the federal communications commission)).

NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

Notwithstanding RCW 35.21.714 or 35A.82.060, any city or town which imposes a tax upon business activities measured by gross receipts or gross income from sales, may impose such tax on that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll services. Such tax shall be levied at the same rate as is applicable to other competitive telephone service as defined in RCW 82.04.065.

NEW SECTION. Sec. 3. A new section is added to chapter 35.21 RCW to read as follows:

A city or town required by RCW 35.21.870(2) to reduce its rate of taxation on telephone business may defer for one year the required reduction in rates for the year 1987. If the delay in rate reductions authorized by the preceding sentence is inadequate for a city or town to offset the impact of revenue reductions arising from the removal of revenues from connecting fees, switching charges, or carrier access charges under the provisions of RCW 35.21.714, then the legislative body of such city or town may reimpose for 1987 the rates that such city or town had in effect upon telephone business during 1985. In each succeeding year, the city or town shall reduce the rate by one-tenth of the difference between the tax rate on April 20, 1982, and six percent.

Sec. 4. Section 11, chapter 144, Laws of 1981 as amended by section 38, chapter 3, Laws of 1983 2nd ex. sess. and RCW 35A.82.060 are each amended to read as follows:

Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.04.065, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from intrastate toll telephone services subject to the fee or tax: **PROVIDED**, That the city shall not impose the fee or tax on that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services ((for which rates are contained in tariffs filed with the federal communications commission)).

NEW SECTION. Sec. 5. A new section is added to chapter 35A.82 RCW to read as follows:

Notwithstanding RCW 35.21.714 or 35A.82.060, any city or town which imposes a tax upon business activities measured by gross receipts or gross income from sales, may impose such tax on that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll services. Such tax shall be levied at the same rate as is applicable to other competitive telephone service as defined in RCW 82.04.065.

NEW SECTION. Sec. 6. A new section is added to chapter 35A.82 RCW to read as follows:

A city or town required by RCW 35.21.870(2) to reduce its rate of taxation on telephone business may defer for one year the required reduction in rates for the year 1987. If the delay in rate reductions authorized by the preceding sentence is inadequate for a code city to offset the impact of revenue reductions arising from the removal of revenues from connecting fees, switching charges, or carrier access charges under the provisions of RCW 35A.82.060, then the legislative body of such code city may reimpose for 1987 the rates that such code city had in effect upon telephone business during 1985. In each succeeding year, the city or town shall reduce the rate by one-tenth of the difference between the tax rate on April 20, 1982, and six percent.

NEW SECTION. Sec. 7. The joint select committee on telecommunications shall study the degree to which cities and towns are able to uniformly assess their telephone business utility taxes upon all similarly taxable events within the individual jurisdiction. Such study shall assess how local utility taxes may be implemented to apply equally to similarly located customers served by competing intrastate toll service providers. The study shall determine if state agencies may be of assistance to cities and towns in identifying the providers of telephone services which are subject to locally levied

utility taxes. The committee shall report its findings and recommendations to the legislature by January 1, 1987.

NEW SECTION. Sec. 8. Sections 1, 2, 4, and 5 of this act shall take effect on January 1, 1987.

Passed the House February 15, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 71

[House Bill No. 1482]

WATERCRAFT—CERTIFICATES OF TITLE OR REGISTRATION

AN ACT Relating to watercraft; and adding a new section to chapter 88.02 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 88.02 RCW to read as follows:

(1) If a certificate of title, a certificate of registration, or a pair of decals is lost, stolen, mutilated, or destroyed or becomes illegible, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly apply for and may obtain a duplicate certificate or replacement decals upon payment of one dollar and furnishing information satisfactory to the department.

(a) An application for a duplicate certificate of title shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the first secured party or, if none, the owner or legal representative of the owner.

(b) An application for a duplicate certificate of registration or replacement decals shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the registered owner or legal representative of the owner.

(2) The duplicate certificate of title or registration shall contain the legend, "This is a duplicate certificate." It shall be mailed to the first priority secured party named in it or, if none, to the owner.

(3) A person recovering an original certificate of title, certificate of registration, or decal for which a duplicate or replacement has been issued shall promptly surrender the original to the department.

Passed the House February 13, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 72

[House Bill No. 1686]

QUASI-COMMUNITY PROPERTY

AN ACT Relating to quasi-community property; and adding new sections to chapter 26-16 RCW.

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

NEW SECTION. Sec. 1. (1) Unless the context clearly requires otherwise, as used in sections 1 through 4 of this act "quasi-community property" means all personal property wherever situated and all real property situated in this state that is not community property and that was acquired:

(a) By the decedent while domiciled elsewhere and that would have been the community property of the decedent and of the decedent's surviving spouse had the decedent been domiciled in this state at the time of its acquisition; or

(b) In derivation or in exchange for real or personal property, wherever situated, that would have been the community property of the decedent and the surviving spouse if the decedent had been domiciled in this state at the time the original property was acquired.

(2) For purposes of this section, leasehold interests in real property are real property.

NEW SECTION. Sec. 2. Upon the death of any person domiciled in this state, one-half of the decedent's quasi-community property shall belong to the decedent's surviving spouse and the other one-half of such property shall be subject to testamentary disposition by the decedent, and in the absence thereof, shall descend in the manner provided for community property under chapter 11.04 RCW.

NEW SECTION. Sec. 3. (1) If a decedent domiciled in this state on the date of his or her death made a lifetime transfer of quasi-community property to a person other than the surviving spouse within three years of death, without adequate consideration and without the consent of the surviving spouse, then within the time for filing claims against the estate as provided by RCW 11.40.010, the surviving spouse may require the transferee to restore to the decedent's estate one-half of such property, if the transferee retains the property, and, if not, one-half of its proceeds, or, if none, one-half of its value at the time of transfer, if:

(a) The decedent retained, at the time of death, the possession or enjoyment of or the right to income from the property;

(b) The decedent retained, at the time of death, a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the principal for the decedent's own benefit; or

(c) The decedent held the property at the time of death with another with the right of survivorship.

Notwithstanding subsection (1) (a), (b), and (c) of this section, a transferee who purchases property or an interest in property from a decedent for value while believing in good faith that such property is the separate property of the decedent and does not constitute quasi-community property shall not be required to restore property, proceeds, or value to the decedent's estate under this provision.

(2) All property restored to the decedent's estate under this section shall belong to the surviving spouse pursuant to section 2 of this act as though the transfer had never been made.

(3) The surviving spouse may waive any right granted hereunder by written instrument filed in the probate proceedings. If the surviving spouse acts as personal representative of the decedent's estate and causes the estate to be closed before the time for exercising any right granted by this section expires, such closure shall act as a waiver by the surviving spouse of any and all rights granted by this section.

NEW SECTION. Sec. 4. The characterization of property as quasi-community property under this chapter shall be effective solely for the purpose of determining the disposition of such property at the time of a death, and such characterization shall not affect the rights of the decedent's creditors. For all other purposes property characterized as quasi-community property under this chapter shall be characterized without regard to the provisions of this chapter. A husband and wife may waive, modify, or relinquish any quasi-community property right granted or created by this chapter by signed written agreement.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act are each added to chapter 26.16 RCW.

Passed the House February 16, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 73

[Substitute House Bill No. 1831]

TEACHER EVALUATION STANDARDS AND MODELS

AN ACT Relating to the study of teacher evaluation standards and models; and amending RCW 28A.67.225.

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

Sec. 1. Section 7, chapter 420, Laws of 1985 and RCW 28A.67.225 are each amended to read as follows:

(1) The superintendent of public instruction shall develop ~~((and test in local districts))~~ for field-test purposes, and in consultation with local school directors, administrators, parents, students, the business community, and teachers, minimum procedural standards ~~((based on available research to be used by local districts in))~~ for evaluations conducted pursuant to RCW 28A.67.065(1). ~~((The superintendent of public instruction shall compensate any district participating in such tests for the actual expenses incurred by the district:))~~ The minimum procedural standards for evaluation shall be based on available research and shall include: (a) A statement of the purpose of evaluations; (b) the frequency of evaluations, with recognition of the need for more frequent evaluations for beginning teachers; (c) the conduct of the evaluation; (d) the procedure to be used in making the evaluation; and (e) the use of the results of the evaluation.

~~((In developing the minimum standards, the superintendent of public instruction shall consider a variety of proposals, such as proposals providing for peer review and evaluation, input by parents, input by students in appropriate circumstances, instructional assistance teams, and outside professional evaluation:))~~

The superintendent of public instruction shall ~~((adopt))~~ propose the minimum procedural standards for field tests not later than July 1, 1986. ~~((This subsection shall not preclude a local district from adopting local procedures or alternative programs which exceed the minimum standards:))~~

(2) The superintendent of public instruction shall develop or purchase and conduct field tests in local districts during the 1987-88 school year model evaluation programs, including standardized evaluation instruments, which meet the minimum standards ~~((established))~~ developed pursuant to subsection (1) of this section and the minimum criteria established pursuant to RCW 28A.67.065. In consultation with school directors, administrators, parents, students, the business community, and teachers, the superintendent of public instruction shall consider a variety of programs such as programs providing for peer review and evaluation input by parents, input by students in appropriate circumstances, instructional assistance teams, and outside professional evaluation. Such programs shall include specific indicators of performance or detailed work expectations against which performance can be measured. The superintendent of public instruction shall compensate any district participating in such tests for the actual expenses incurred by the district.

(3) Not later than ~~((July))~~ September 1, 1988, the superintendent of public instruction shall adopt state procedural standards and select from one to five model evaluation programs which may be used by local districts in conducting evaluations pursuant to RCW 28A.67.065(1). Local school districts shall establish and implement an evaluation program on or before September 1, 1989, by selecting one of the models approved by the superintendent of public instruction or by adopting an evaluation program pursuant

to the bargaining process set forth in chapters 41.56 and 41.59 RCW. Local school districts may adopt an evaluation program which contains criteria and standards in excess of the minimum criteria and standards established by the superintendent of public instruction.

(4) The superintendent of public instruction shall report to the legislature on the progress of the development and field testing of minimum procedural standards and model evaluation programs on or before January 1, 1987, and January 1, 1988.

Passed the House February 14, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 74

[Substitute House Bill No. 1368]
DRIVING RECORD ABSTRACTS

AN ACT Relating to abstracts of driving records; and amending RCW 46.52.130.

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

Sec. 1. Section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 11, chapter 1, Laws of 1985 ex. sess. and RCW 46.52.130 are each amended to read as follows:

Any request for a certified abstract must specify which part is requested, and only the part requested shall be furnished. The employment driving record part shall be furnished only to the individual named in the abstract, an employer, the insurance carrier that has insurance in effect covering the employer, or a prospective employer. The other part shall be furnished only to the individual named in the abstract, the insurance carrier that has insurance in effect covering the named individual, or the insurance carrier to which the named individual has applied. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years, and the abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was ((involved)) driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; and any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law. The enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

The abstract provided to an insurance company shall have excluded from it any information pertaining to any occupational driver's license when the license is issued to any person employed by another or self-employed as

a motor vehicle driver who during the five years preceding the request has been issued such a license by reason of a conviction or finding of a traffic infraction involving a motor vehicle offense outside the scope of his principal employment, and who has during that period been principally employed as a motor vehicle driver deriving the major portion of his income therefrom. The abstract provided to the insurance company shall also exclude any information pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any member of the Washington state patrol, while driving official vehicles in the performance of occupational duty during an emergency situation if the chief of the officer's or fire fighter's department certifies on the accident report that the actions of the officer or fire fighter were reasonable under the circumstances as they existed at the time of the accident.

The director shall collect for each abstract the sum of three dollars and fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, or denied on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment.

Any employer or prospective employer receiving the certified abstract shall use it exclusively for his own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon the public highways of this state and shall not divulge any information contained in it to a third party.

Any violation of this section is a gross misdemeanor.

Passed the House February 13, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 75

[Substitute House Bill No. 686]

UNEMPLOYMENT COMPENSATION—DISQUALIFICATION—INDUSTRIAL INSURANCE BENEFITS

AN ACT Relating to compensation for temporary or permanent disability; and adding a new section to chapter 50.20 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 50.20 RCW to read as follows:

An individual is disqualified from benefits with respect to any day or days in which he or she is receiving compensation under RCW 51.32.060 or 51.32.090.

Passed the House January 27, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 76

[House Bill No. 1393]

SUPERIOR COURTS—ADDITIONAL JUDICIAL POSITIONS

AN ACT Relating to superior courts; amending RCW 2.08.065; creating a new section; and providing an effective date.

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

Sec. 1. Section 7, chapter 125, Laws of 1951 as last amended by section 2, chapter 65, Laws of 1981 and RCW 2.08.065 are each amended to read as follows:

There shall be in the county of Grant, two judges of the superior court; in the county of Okanogan, one judge of the superior court; in the ~~((counties))~~ county of Mason ~~((and))~~, one judge of the superior court; in the county of Thurston ~~((jointly))~~, five judges of the superior court; in the counties of Pacific and Wahkiakum jointly, one judge of the superior court; in the counties of Ferry, Pend Oreille, and Stevens jointly, two judges of the superior court; and in the counties of San Juan and Island jointly, two judges of the superior court.

NEW SECTION. Sec. 2. (1) Pursuant to RCW 2.08.069, the governor shall appoint a person to fill the judicial position created by section 1 of this act in Mason county. The five judges of the superior court serving in the Thurston/Mason judicial district on the effective date of this act shall be assigned to the new Thurston county judicial district.

(2) This act shall take effect January 1, 1987. The additional judicial position created by section 1 of this act in Mason county shall be effective only if, before January 1, 1987, Thurston and Mason counties, through their duly constituted legislative authorities, document their approval of the additional position and their agreement that they will pay out of county

funds, without reimbursement from the state, the expenses resulting from section 1 of this act.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 77

[Engrossed Senate Bill No. 3334]

SCHOOL BUS MAINTENANCE—JOINT PURCHASING AGENCIES—PRIVATE SCHOOLS

AN ACT Relating to private schools; and amending RCW 28A.58.107.

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

Sec. 1. Section 28A.58.107, chapter 223, Laws of 1969 ex. sess., as last amended by section 1, chapter 125, Laws of 1983 and RCW 28A.58.107 are each amended to read as follows:

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

(1) Provide for the expenditure of a reasonable amount for suitable commencement exercises;

(2) In addition to providing free instruction in lip reading for children handicapped by defective hearing, make arrangements for free instruction in lip reading to adults handicapped by defective hearing whenever in its judgment such instruction appears to be in the best interests of the school district and adults concerned;

(3) Join with boards of directors of other school districts or an educational service district pursuant to RCW 28A.21.086(3), as now or hereafter amended, or both such school districts and educational service district in buying supplies, equipment and services by establishing and maintaining a joint purchasing agency, or otherwise, when deemed for the best interests of the district, any joint agency formed hereunder being herewith authorized and empowered to issue interest bearing warrants in payment of any obligation owed: PROVIDED, HOWEVER, That those agencies issuing interest bearing warrants shall assign accounts receivable in an amount equal to the amount of the outstanding interest bearing warrants to the county treasurer issuing such interest bearing warrants: PROVIDED FURTHER, That the joint purchasing agency shall consider the request of any one or more private schools requesting the agency to jointly buy supplies, equipment, and services including but not limited to school bus maintenance services, and, after considering such request, may cooperate with and jointly make purchases with private schools of supplies, equipment, and services, including but not limited to school bus maintenance services, so long as such

private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases;

(4) Consider the request of any one or more private schools requesting the board to jointly buy supplies, equipment and services including but not limited to school bus maintenance services, and, after considering such request, may provide such joint purchasing services: PROVIDED, That such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases; and

(5) Prepare budgets as provided for in chapter 28A.65 RCW.

Passed the Senate February 12, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 78

[Senate Bill No. 4959]

PORNOGRAPHY—PROMOTION—CRIMINAL PROFITEERING

AN ACT Relating to criminal profiteering from promoting pornography; and amending RCW 9A.82.010.

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

Sec. 1. Section 1, chapter 270, Laws of 1984 as amended by section 2, chapter 455, Laws of 1985 and RCW 9A.82.010 are each amended to read as follows:

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

(1) "Creditor" means a person making an extension of credit or a person claiming by, under, or through a person making an extension of credit.

(2) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.

(3) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(4) "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(5) "To collect an extension of credit" means to induce in any way a person to make repayment thereof.

(6) "To extend credit" means to make or renew a loan or to enter into an agreement, tacit or express, whereby the repayment or satisfaction of a debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

(7) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(8) "Dealer in property" means a person who buys and sells property as a business.

(9) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

(10) "Traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person.

(11) "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

(12) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(13) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

(14) "Criminal profiteering" means any act, including any anticipatory or completed offense, committed for financial gain, that is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, as any of the following:

- (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and 9A.56.080;
- (f) Child selling or child buying, as defined in RCW 9A.64.030;

- (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and 9A.68.050;
 - (h) Gambling, as defined in RCW 9.46.220 and 9.46.230;
 - (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
 - (j) Extortionate extension of credit, as defined in RCW 9A.82.020;
 - (k) Advancing money for use in an extortionate extension of credit, as defined in RCW 9A.82.030;
 - (l) Collection of an extortionate extension of credit, as defined in RCW 9A.82.040;
 - (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;
 - (n) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;
 - (o) Trafficking in stolen property, as defined in RCW 9A.82.050;
 - (p) Leading organized crime, as defined in RCW 9A.82.060;
 - (q) Obstructing criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;
 - (r) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;
 - (s) Promoting pornography, as defined in RCW 9.68.140;
 - (t) Sexual exploitation of children, as defined in RCW 9.68A.040, 9.68A.050, and 9.68A.060;
 - ((t)) (u) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;
 - ((t)) (v) Arson, as defined in RCW 9A.48.020 and 9A.48.030; or
 - ((t)) (w) Assault, as defined in RCW 9A.36.010 and 9A.36.020.
- (15) "Pattern of criminal profiteering activity" means engaging in at least three acts of criminal profiteering, one of which occurred after July 1, 1985, and the last of which occurred within five years, excluding any period of imprisonment, after the commission of the earliest act of criminal profiteering. In order to constitute a pattern, the three acts must have the same or similar intent, results, accomplices, principals, victims, or methods of commission, or be otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise, and must not be isolated events. However, in any civil proceedings brought pursuant to RCW 9A.82.100 by any person other than the attorney general or county prosecuting attorney in which one or more acts of fraud in the purchase or sale of securities are asserted as acts of criminal profiteering activity, it is a condition to civil liability under RCW 9A.82.100 that the defendant has been convicted in a criminal proceeding of fraud in the purchase or sale of securities under RCW 21.20.400 or under the laws of another state or of the United States requiring the same elements of proof, but such conviction need not relate to

any act or acts asserted as acts of criminal profiteering activity in such civil action under RCW 9A.82.100.

(16) "Records" means any book, paper, writing, record, computer program, or other material.

(17) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(18) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in full or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(i) Chapter 67.16 RCW relating to horse racing;

(ii) Chapter 9.46 RCW relating to gambling;

(b) In a gambling activity in violation of federal law; or

(c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury.

(19)(a) "Beneficial interest" means:

(i) The interest of a person as a beneficiary under a trust established under Title 11 RCW in which the trustee for the trust holds legal or record title to real property;

(ii) The interest of a person as a beneficiary under any other trust arrangement under which a trustee holds legal or record title to real property for the benefit of the beneficiary; or

(iii) The interest of a person under any other form of express fiduciary arrangement under which one person holds legal or record title to real property for the benefit of the other person.

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in a general partnership or limited partnership.

(c) A beneficial interest shall be considered to be located where the real property owned by the trustee is located.

(20) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

(21) (a) "Trustee" means:

(i) A person acting as a trustee under a trust established under Title 11 RCW in which the trustee holds legal or record title to real property;

(ii) A person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) A successor trustee to a person who is a trustee under subsection(21)(a)(i) or (ii) of this section.

(b) "Trustee" does not mean a person appointed or acting as:

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust;

(iii) A trustee of any indenture of trust under which a bond is issued;

or

(iv) A trustee under a deed of trust.

Passed the Senate February 13, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 79

[Senate Bill No. 4723]

STATE LIBRARY COMMISSION—GRANTS AND FUNDS—AUTHORITY

AN ACT Relating to the state library commission; and amending RCW 27.04.030.

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

Sec. 1. Section 2, chapter 5, Laws of 1941 as last amended by section 1, chapter 152, Laws of 1984 and RCW 27.04.030 are each amended to read as follows:

The state library commission:

(1) May make such rules under chapter 34.04 RCW as may be deemed necessary and proper to carry out the purposes of this chapter;

(2) Shall set general policy direction pursuant to the provisions of this chapter;

(3) Shall appoint a state librarian who shall serve at the pleasure of the commission;

(4) Shall adopt a recommended budget and submit it to the governor;

(5) Shall have authority to contract with any agency of the state of Washington for the purpose of providing library materials, supplies, and equipment and employing assistants as needed for the development, growth, and operation of any library facilities or services of such agency;

(6) Shall have authority to contract with any public library in the state for that library to render library service to the blind and/or physically handicapped throughout the state. The state library commission shall have authority to compensate such public library for the cost of the service it renders under such contract;

(7) May adopt rules under chapter 34.04 RCW for the allocation of any grants of state, federal, or private funds for ~~((public or cooperative))~~ library ~~((services))~~ purposes;

(8) Shall have authority to accept and to expend in accordance with the terms thereof any grant of federal or private funds which may become available to the state for library purposes. For the purpose of qualifying to

receive such grants, the state library commission is authorized to make such applications and reports as may be required by the federal government or appropriate private entity as a condition thereto;

(9) Shall have the authority to provide for the sale of library material in accordance with RCW 27.12.305;

(10) Shall pay expenses of the state board for certification of librarians under RCW 27.08.045.

Passed the Senate February 11, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 80

[House Bill No. 1519]

DRIVER TRAINING SCHOOLS

AN ACT Relating to driver training schools; and amending RCW 46.82.280 and 46.82.320.

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

Sec. 1. Section 1, chapter 51, Laws of 1979 ex. sess. and RCW 46.82-.280 are each amended to read as follows:

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

(1) "Driver training school" means a commercial driver training school engaged in the business of giving instruction, for a fee, in the operation of automobiles ((or motorcycles)).

(2) "Director" means the director of the department of licensing of the state of Washington.

(3) "Advisory committee" means the driving instructors' advisory committee as created in this chapter.

(4) "Fraudulent practices" means any conduct or representation on the part of a licensee under this chapter tending to induce anyone to believe, or to give the impression, that a license to operate a motor vehicle or any other license granted by the director may be obtained by any means other than those prescribed by law, or furnishing or obtaining the same by illegal or improper means, or requesting, accepting, or collecting money for such purposes.

(5) "Instructor" means any person employed by a driver training school to instruct persons in the operation of automobiles ((or motorcycles)).

(6) "Place of business" means a designated location at which the business of a driver training school is transacted and its records are kept.

(7) "Person" means any individual, firm, corporation, partnership, or association.

Sec. 2. Section 5, chapter 51, Laws of 1979 ex. sess. 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 ((or motorcycle)) 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.

(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.

Passed the House February 13, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 81

[Substitute House Bill No. 1540]

SOLID WASTE MANAGEMENT—MINIMUM FUNCTIONAL STANDARDS—
ASSESSMENT AND ANALYSIS

AN ACT Relating to solid waste management; adding a new section to chapter 70.95 RCW; and making an appropriation.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.95 RCW to read as follows:

In order to implement the minimum functional standards for solid waste handling, evaluate the effectiveness of the minimum functional standards, evaluate the cost of implementation, and develop a mechanism to finance the implementation, the department shall prepare:

(1) An assessment of local health agencies' information on all existing permitted landfill sites, including (a) measures taken and facilities installed at each landfill to mitigate surface water and ground water contamination, (b) proposed measures taken and facilities to be constructed at each landfill to mitigate surface water and ground water contamination, and (c) the costs of such measures and facilities;

(2) An analysis of the effectiveness of the minimum functional standards for new landfills in lessening surface water and ground water contamination, and a comparison with the effectiveness of the prior standards;

(3) An analysis of the costs of conforming with the new functional standards for new landfills compared with the costs of conforming to the prior standards; and

(4) Proposals for methods of financing the costs of conforming with the new functional standards.

NEW SECTION. Sec. 2. The sum of forty-nine thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the department of ecology to carry out the purposes of this act.

Passed the House February 13, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 82

[Engrossed Substitute House Bill No. 1177]

DANGEROUS OR EXTREMELY HAZARDOUS WASTE—NOTIFICATION FORMS—ANNUAL REPORTS

AN ACT Relating to hazardous waste; and adding a new section to chapter 70.105 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.105 RCW to read as follows:

Any person who generates, treats, stores, disposes, or otherwise handles dangerous or extremely hazardous wastes shall provide copies of any notification forms, or annual reports that are required pursuant to RCW 70.105-.130 to the fire departments or fire districts that service the areas in which the wastes are handled upon the request of the fire departments or fire districts. In areas that are not serviced by a fire department or fire district, the forms or reports shall be provided to the sheriff or other county official designated pursuant to RCW 48.48.060 upon the request of the sheriff or other county official. This section shall not apply to the transportation of hazardous wastes.

Passed the House March 8, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 83

[Substitute House Bill No. 1433]

STATE LOTTERY PROCEEDS—DEBTS OWED THE STATE—PROCEDURE

AN ACT Relating to the state lottery; adding a new section to chapter 67.70 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. The award of prizes by the state lottery is one of many functions of the state government. As such, the lottery prizes should be subject to debts owed to the state or that the state is authorized to enforce or collect. This policy expedites collections of obligations through interagency cooperation.

NEW SECTION. Sec. 2. A new section is added to chapter 67.70 RCW to read as follows:

(1) Any state agency or political subdivision that maintains records of debts owed to the state or political subdivision, or that the state is authorized to enforce or collect, may submit data processing tapes containing debt information to the lottery in a format specified by the lottery. State agencies

or political subdivisions submitting debt information tapes shall provide updates on a regular basis at intervals not to exceed one month and shall be solely responsible for the accuracy of the information contained therein.

(2) The lottery shall include the debt information submitted by state agencies or political subdivisions in its validation and prize payment process. The lottery shall delay payment of a prize exceeding six hundred dollars for a period not to exceed two working days, to any person owing a debt to a state agency or political subdivision pursuant to the information submitted in subsection (1) of this section. The lottery shall contact the state agency or political subdivision that provided the information to verify the debt. The prize shall be paid to the claimant if the debt is not verified by the submitting state agency or political subdivision within two working days. If the debt is verified, the prize shall be disbursed pursuant to subsection (3) of this section.

(3) Prior to disbursement, any lottery prize exceeding six hundred dollars shall be set off against any debts owed by the prize winner to a state agency or political subdivision, or that the state is authorized to enforce or collect.

NEW SECTION. Sec. 3. This act shall take effect September 1, 1986.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 84

[House Bill No. 1441]

UNCLAIMED PROPERTY—AMOUNT—NOTICE REQUIREMENTS

AN ACT Relating to unclaimed property; and amending RCW 63.29.180.

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

Sec. 1. Section 18, chapter 179, Laws of 1983 and RCW 63.29.180 are each amended to read as follows:

(1) The department shall cause a notice to be published not later than March 1, or in the case of property reported by life insurance companies, September 1, immediately following the report required by RCW 63.29.170 at least once a week for two consecutive weeks in a newspaper of general circulation in the county of this state in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in the county in which the holder of the property has its principal place of business within this state.

(2) The published notice must be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property" and contain:

(a) The names in alphabetical order and last known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection (1) of this section;

(b) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the department; and

(c) A statement that if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before April 20, or, in the case of property reported by life insurance companies, before October 20, the property will be placed not later than May 1, or in the case of property reported by life insurance companies, not later than November 1, in the custody of the department and all further claims must thereafter be directed to the department.

(3) The department is not required to publish in the notice any items of less than ~~((twenty-five))~~ seventy-five dollars unless the department considers their publication to be in the public interest.

(4) Not later than March 1, or in the case of property reported by life insurance companies, not later than September 1, immediately following the report required by RCW 63.29.170, the department shall mail a notice to each person whose last known address is listed in the report and who appears to be entitled to property of the value of ~~((twenty-five))~~ seventy-five dollars or more presumed abandoned under this chapter and any beneficiary of a life or endowment insurance policy or annuity contract for whom the department has a last known address.

(5) The mailed notice must contain:

(a) A statement that, according to a report filed with the department, property is being held to which the addressee appears entitled;

(b) The name and last known address of the person holding the property and any necessary information regarding the changes of name and last known address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department and all further claims must be directed to the department.

(6) This section is not applicable to sums payable on travelers checks, money orders, and other written instruments presumed abandoned under RCW 63.29.040.

Passed the House February 13, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 85

[Substitute House Bill No. 1580]

MEDICAL ASSISTANCE—VIOLATIONS—CLASS C FELONIES—STATUTE OF LIMITATIONS

AN ACT Relating to limitations on criminal actions; and reenacting and amending RCW 9A.04.080.

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

Sec. 1. Section 9A.04.080, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 186, Laws of 1985 and by section 19, chapter 455, Laws of 1985 and RCW 9A.04.080 are each reenacted and amended to read as follows:

Prosecutions for the offenses of murder, and arson where death ensues, may be commenced at any period after the commission of the offense; for offenses the punishment of which may be imprisonment in a state correctional institution, committed by any public officer in connection with the duties of his office or constituting a breach of his public duty or a violation of his oath of office, and arson where death does not ensue, within ten years after their commission; for violations of RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b), within seven years after their commission; for violations of RCW 9A.82.060 or 9A.82.080, within ~~((six))~~ seven years after their commission; for violations of class C felonies under chapter 74.09 RCW, within five years after their commission; for all other offenses the punishment of which may be imprisonment in a state correctional institution, within three years after their commission; two years for gross misdemeanors; and for all other offenses, within one year after their commission: PROVIDED, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one, two, three, ~~((six))~~ five, seven, and ten years respectively: AND FURTHER PROVIDED, That where an indictment has been found, or complaint or an information filed, within the time limited for the commencement of a criminal action, if the indictment, complaint or information be set was set aside.

Passed the House February 13, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 86

[Engrossed Senate Bill No. 3495]

AMUSEMENT RIDES

AN ACT Relating to the regulation of amusement rides; amending RCW 67.42.020; and adding a new section to chapter 67.42 RCW.

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

Sec. 1. Section 2, chapter 262, Laws of 1985 and RCW 67.42.020 are each amended to read as follows:

Before operating any amusement ride or structure, the owner or operator shall:

- (1) Obtain a permit pursuant to RCW 67.42.030;
- (2) Have the amusement ride or structure inspected for safety at least once annually by an insurer ((σ)), a person with whom the insurer has contracted, or a person who meets the qualifications set by the department and obtain from the insurer or person a written certificate that the inspection has been made and that the amusement ride or structure meets the standards for coverage and is covered by the insurer as required by subsection (3) of this section;
- (3) Have and keep in effect an insurance policy in an amount not less than one million dollars per occurrence insuring: (a) The owner or operator; and (b) any municipality or county on whose property the amusement ride or structure stands, or any municipality or county which has contracted with the owner or operator against liability for injury to persons arising out of the use of the amusement ride or structure;
- (4) File with the department the inspection certificate and insurance policy required by this section; and
- (5) File with each sponsor, lessor, landowner, or other person responsible for an amusement structure or ride being offered for use by the public a certificate stating that the insurance required by subsection (3) of this section is in effect.

NEW SECTION. Sec. 2. A new section is added to chapter 67.42 RCW to read as follows:

- (1) An amusement ride that has been inspected in any state, territory, or possession of the United States that, in the discretion of the department, has a level of regulation comparable to this chapter, shall be deemed to meet the inspection requirement of this chapter.
- (2) An amusement ride inspector who is authorized to inspect amusement rides in any state, territory, or possession of the United States, who, in the discretion of the department, has a level of qualifications comparable to those required under this chapter, shall be deemed qualified to inspect amusement rides under this chapter.

Passed the Senate February 15, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 87

[Substitute Senate Bill No. 4221]
LIQUOR REVOLVING FUND

AN ACT Relating to the distribution of moneys in the liquor revolving fund; amending RCW 66.08.180 and 68.08.107; and providing an effective date.

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

Sec. 1. Section 77, chapter 62, Laws of 1933 ex. sess. as last amended by section 6, chapter 5, Laws of 1981 1st ex. sess. and RCW 66.08.180 are each amended to read as follows:

Moneys in the liquor revolving fund shall be distributed by the board at least once every three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210: PROVIDED, That the board shall reserve from distribution such amount not exceeding five hundred thousand dollars as may be necessary for the proper administration of this title: AND PROVIDED FURTHER, That all license fees, penalties and forfeitures derived under this act from class H licenses or class H licensees shall every three months be disbursed by the board as follows:

(1) 5.95 percent to the University of Washington and 3.97 percent to Washington State University for ~~((medical and biological research only, in such proportions as shall be determined by the board after consultation with the heads of said state institutions. AND PROVIDED FURTHER, That when the allocations in any biennium to the University of Washington and Washington State University shall amount to a total of one million dollars, the entire allocation for the remainder of the biennium shall be transferred to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96.085, as now or hereafter amended. AND PROVIDED FURTHER, That twenty percent of the total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.340, 66.24.350, 66.24.360, and 66.24.370, as such sections are now or hereafter amended, shall be transferred))~~ alcoholism and drug abuse research and for the dissemination of such research;

(2) 1.75 percent, but in no event less than one hundred fifty thousand dollars per biennium, to the University of Washington to conduct the state toxicological laboratory pursuant to RCW 68.08.107; and

(3) 88.33 percent and twenty percent of the total amount derived from license fees under RCW 66.24.320, 66.24.330, 66.24.340, 66.24.350, 66.24.360, and 66.24.370 to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96.085, as now or hereafter amended: AND PROVIDED FURTHER, That one-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape research, extension programs related to wine

and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedure to insure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for.

Sec. 2. Section 13, chapter 188, Laws of 1953 as last amended by section 10, chapter 16, Laws of 1983 1st ex. sess. and RCW 68.08.107 are each amended to read as follows:

There shall be established at the University of Washington Medical School a state toxicological laboratory under the direction of the state toxicologist whose duty it will be to perform all necessary toxicologic procedures requested by all coroners, medical examiners, and prosecuting attorneys. Annually the president of the University of Washington, with the consent of the state death investigations council, shall appoint a competent toxicologist as state toxicologist who shall serve a one year term. The state toxicologist may be reappointed to as many additional one year terms as the president of the university and the death investigations council deem proper. The facilities of the police school of the Washington State University and the services of its professional staff shall be made available to coroners, medical examiners, and prosecuting attorneys in their investigations under this chapter. ~~((This laboratory shall be deemed to be within the meaning of medical and biological research as defined in RCW 66.08.180, and one hundred fifty thousand dollars per biennium shall be provided for partial funding of salaries and operations of the laboratory. The funds so provided shall take priority over disbursements of any other sums from the medical and biological research fund:))~~ This laboratory shall be funded by disbursement from the class H license fees as provided in RCW 66.08.180.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1987.

Passed the Senate February 11, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 88

[Engrossed Substitute House Bill No. 1148]

STRIP SEARCHES AND BODY CAVITY SEARCHES

AN ACT Relating to strip searches and body cavity searches; amending RCW 10.79.110; and adding new sections to chapter 10.79 RCW.

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

NEW SECTION. Sec. 1. Sections 2 through 5 of this act apply to any person in custody at a holding, detention, or local correctional facility, other

than a person committed to incarceration by order of a court, regardless of whether an arrest warrant or other court order was issued before the person was arrested or otherwise taken into custody unless the court issuing the warrant has determined that the person shall not be released on personal recognizance, bail, or bond. Sections 2 through 5 of this act do not apply to a person held for post-conviction incarceration for a criminal offense. The definitions and remedies provided by RCW 10.79.070 and 10.79.110 apply to sections 2 through 5 of this act.

NEW SECTION. Sec. 2. (1) No person to whom this section is made applicable by section 1 of this act may be strip searched without a warrant unless:

(a) There is a reasonable suspicion to believe that a strip search is necessary to discover weapons, criminal evidence, contraband, or other thing concealed on the body of the person to be searched, that constitutes a threat to the security of a holding, detention, or local correctional facility;

(b) There is probable cause to believe that a strip search is necessary to discover other criminal evidence concealed on the body of the person to be searched, but not constituting a threat to facility security; or

(c) There is a reasonable suspicion to believe that a strip search is necessary to discover a health condition requiring immediate medical attention.

(2) For the purposes of subsection (1) of this section, a reasonable suspicion is deemed to be present when the person to be searched has been arrested for:

(a) A violent offense as defined in RCW 9.94A.030 or any successor statute;

(b) An offense involving escape, burglary, or the use of a deadly weapon; or

(c) An offense involving possession of a drug or controlled substance under chapter 69.41, 69.50, or 69.52 RCW or any successor statute.

NEW SECTION. Sec. 3. (1) A person to whom this section is made applicable by section 1 of this act who has not been arrested for an offense within one of the categories specified in section 2(2) of this act may nevertheless be strip searched, but only upon an individualized determination of reasonable suspicion or probable cause as provided in this section.

(2) With the exception of those situations in which reasonable suspicion is deemed to be present under section 2(2) of this act, no strip search may be conducted without the specific prior written approval of the jail unit supervisor on duty. Before any strip search is conducted, reasonable efforts must be made to use other less-intrusive means, such as pat-down, electronic metal detector, or clothing searches, to determine whether a weapon, criminal evidence, contraband, or other thing is concealed on the body, or whether a health condition requiring immediate medical attention is present. The determination of whether reasonable suspicion or probable

cause exists to conduct a strip search shall be made only after such less-intrusive means have been used and shall be based on a consideration of all information and circumstances known to the officer authorizing the strip search, including but not limited to the following factors:

- (a) The nature of the offense for which the person to be searched was arrested;
- (b) The prior criminal record of the person to be searched; and
- (c) Physically violent behavior of the person to be searched, during or after the arrest.

NEW SECTION. Sec. 4. (1) A written record of any strip search shall be maintained in the individual file of each person strip searched.

(2) With respect to any strip search conducted under section 3 of this act, the record shall contain the following information:

- (a) The name of the supervisor authorizing the strip search;
- (b) The specific facts constituting reasonable suspicion to believe that the strip search was necessary;
- (c) The name and serial number of the officer conducting the strip search and of all other persons present or observing during any part of the strip search;
- (d) The time, date, and place of the strip search; and
- (e) Any weapons, criminal evidence, contraband, or other thing, or health condition discovered as a result of the strip search.

(3) With respect to any strip search conducted under section 2(2) of this act, the record shall contain, in addition to the offense or offenses for which the person searched was arrested, the information required by subsection (2) (c), (d), and (e) of this section.

(4) The record may be included or incorporated in existing forms used by the facility, including the booking form required under the Washington Administrative Code. A notation of the name of the person strip searched shall also be entered in the log of daily activities or other chronological record, if any, maintained pursuant to the Washington Administrative Code.

(5) Except at the request of the person to be searched, no person may be present or observe during the strip search unless necessary to conduct the search.

NEW SECTION. Sec. 5. Physical examinations conducted by licensed medical professionals solely for public health purposes under separate statutory authority shall not be considered searches for purposes of sections 2, 3, and 4 of this act.

NEW SECTION. Sec. 6. No governmental entity and no employee or contracting agent of a governmental entity shall be liable for injury, death, or damage caused by a person in custody when the injury, death, or damage

is caused by or made possible by contraband that would have been discovered sooner but for the delay caused by having to seek a search warrant under RCW 10.79.080 or sections 2 through 5 of this act.

Sec. 7. Section 6, chapter 42, Laws of 1983 1st ex. sess. and RCW 10.79.110 are each amended to read as follows:

(1) A person who suffers damage or harm as a result of a violation of RCW 10.79.080, 10.79.090, ~~((or))~~ 10.79.100, or sections 2 through 6 of this 1986 act may bring a civil action to recover actual damages sustained by him or her. The court may, in its discretion, award injunctive and declaratory relief as it deems necessary.

(2) RCW 10.79.080, 10.79.090, ~~((and))~~ 10.79.100, and sections 2 through 6 of this 1986 act shall not be construed as limiting any constitutional, common law, or statutory right of any person regarding any action for damages or injunctive relief, or as precluding the prosecution under another provision of law of any law enforcement officer or other person who has violated RCW 10.79.080, 10.79.090, ~~((or))~~ 10.79.100, or sections 2 through 6 of this 1986 act.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act are added to chapter 10.79 RCW.

Passed the House February 13, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 89

[Substitute House Bill No. 1363]

COVERED LOADS—DEBRIS—MOTOR VEHICLES

AN ACT Relating to motor vehicles; and amending RCW 46.61.655.

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

Sec. 1. Section 46.56.135, chapter 12, Laws of 1961 as last amended by section 22, chapter 307, Laws of 1971 ex. sess. and RCW 46.61.655 are each amended to read as follows:

(1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction(~~((or water or other substance may be sprinkled on a roadway in the cleaning or maintaining of such roadway by public authority having jurisdiction))~~). Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger

travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.

(2) No person may operate on any public highway any vehicle with any load unless the load and such covering as required thereon be [by] subsection (3) of this 1986 act is securely fastened to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(3) Any vehicle operating on a paved public highway with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained within the bed.

(4) Any vehicle with deposits of mud, rocks, or other debris on the vehicle's body, fenders, frame, undercarriage, wheels, or tires shall be cleaned of such material before the operation of the vehicle on a paved public highway.

(5) The legislative transportation committee shall monitor the effects of subsections (2) through (4) of this section after the effective date of this act, until January 1, 1987, to determine if modifications to this section are necessary.

(6) The commission on equipment may make necessary rules to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods, and practices to effectuate such provisions.

(7) Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a highway to enhance traction, or sprinkling water or other substances to clean or maintain a highway.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 90

[Substitute House Bill No. 205]

SECURITIES—LIMITED OFFERING EXEMPTION

AN ACT Relating to the securities act of Washington; amending RCW 21.20.320 and 21.20.340; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 32, chapter 282, Laws of 1959 as last amended by section 6, chapter 272, Laws of 1981 and RCW 21.20.320 are each 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.

(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 transactions by a mutual or cooperative association issuing to its patrons any receipt, written notice, certificate of indebtedness, or stock for a patronage dividend, or for contributions to capital by such patrons in the association if any such receipt, written notice, or certificate made pursuant to this paragraph is nontransferable except in the case of death or by operation of law and 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.

Sec. 2. Section 24, chapter 68, Laws of 1979 ex. sess. as amended by section 7, chapter 272, Laws of 1981 and RCW 21.20.340 are each amended to read as follows:

The following fees shall be paid in advance under the provisions of this chapter:

(1) For registration of all securities other than investment trusts and securities registered by coordination the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve-month period only the unsold portion for which the registration fee has been paid.

(2) For registration of securities issued by a face-amount certificate company or redeemable security issued by an open-end management company or investment trust, as those terms are defined in the Investment Company Act of 1940, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered in this state during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for an additional twelve-month period the unsold portion for which the registration fee has been paid.

(3) For registration by coordination, other than investment trusts, the initial filing fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-fortieth of one percent for any excess over one hundred

thousand dollars for the first twelve-month period plus one hundred dollars for each additional twelve months in which the same offering is continued.

(4) For filing annual financial statements, the fee shall be twenty-five dollars.

(5) For filing an amended offering circular after the initial registration permit has been granted the fee shall be ten dollars.

(6) For registration of a broker-dealer or investment adviser, the fee shall be one hundred fifty dollars for original registration and seventy-five dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(7) For registration of a salesperson or investment adviser salesperson, the fee shall be thirty-five dollars for original registration with each employer and fifteen dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(8) For written examination for registration as a salesperson or investment adviser salesperson, the fee shall be fifteen dollars. For examinations for registration as a broker-dealer or investment adviser, the fee shall be fifty dollars.

(9) If a registration of a broker-dealer, salesperson, investment adviser, or investment adviser salesperson is not renewed on or before December 31st of each year the renewal is delinquent. The director by rule or order may set and assess a fee for delinquency not to exceed two hundred dollars. Acceptance by the director of an application for renewal after December 31st is not a waiver of delinquency. A delinquent application for renewal will not be accepted for filing after March 1st.

(10) (a) For the transfer of a broker-dealer license to a successor, the fee shall be fifty dollars.

(b) For the transfer of a salesperson license from a broker-dealer or issuer to another broker-dealer or issuer, the transfer fee shall be twenty-five dollars.

(c) For the transfer of an investment adviser salesperson license from an investment adviser to another investment adviser, the transfer fee shall be twenty-five dollars.

(d) For the transfer of an investment adviser license to a successor, the fee shall be fifty dollars.

(11) The director may provide by rule for the filing of notice of claim of exemption under RCW 21.20.320 (1) ((or)), (9), and (17) and set fees accordingly not to exceed three hundred dollars.

(12) For filing of notification of claim of exemption from registration pursuant to RCW 21.20.310(11), as now or hereafter amended, the fee shall be fifty dollars for each filing.

(13) For rendering interpretative opinions, the fee shall be thirty-five dollars.

(14) For certified copies of any documents filed with the director, the fee shall be the cost to the department.

(15) For a duplicate license the fee shall be five dollars.

All fees collected under this chapter shall be turned in to the state treasury and are not refundable, except as herein provided.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1986.

Passed the House March 8, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 91

[Substitute House Bill No. 614]

HIGHER EDUCATION—SERVICES AND ACTIVITIES FEE COMMITTEE

AN ACT Relating to services and activities fees at institutions of higher education; and amending RCW 28B.15.044 and 28B.15.045.

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

Sec. 1. Section 1, chapter 80, Laws of 1980 and RCW 28B.15.044 are each amended to read as follows:

It is the intent of the legislature that students will propose ((initial)) budgetary recommendations for consideration by the college or university administration and governing board to the extent that such budget recommendations are intended to be funded by services and activities fees. It is also the intent of the legislature that services and activities fee expenditures for programs devoted to political or economic philosophies shall result in the presentation of a spectrum of ideas.

Sec. 2. Section 2, chapter 80, Laws of 1980 and RCW 28B.15.045 are each amended to read as follows:

The boards of trustees and the boards of regents of the respective institutions of higher education shall adopt guidelines governing the establishment and funding of programs supported by services and activities fees. Such guidelines shall spell out procedures for budgeting and expending services and activities fee revenue. Any such guidelines shall be consistent with the following provisions:

(1) ((initial)) Responsibility for proposing program priorities and budget levels for that portion of program budgets that derive from services and activities fees shall reside with a services and activities fee committee, on which students shall hold at least a majority of the voting memberships,

such student members to be recommended by the student government association or its equivalent. The chairperson of the services and activities fee committee shall be selected by the members of that committee. The governing board shall insure that the services and activities fee committee provides an opportunity for all viewpoints to be heard during its consideration of the funding of student programs and activities.

(2) The services and activities fee committee shall evaluate existing and proposed programs and submit budget recommendations for the expenditure of those services and activities fees with supporting documents to the college or university administration, and shall submit informational copies of such to the governing board.

(3) The college or university administration shall review and publish a written response to the services and activities fee committee recommendations. This response shall outline areas of difference between the committee recommendations and the administration's proposed budget recommendations. This response, with supporting documentation, shall be submitted to the services and activities fee committee and the governing board.

~~(4) ((The college or university administration, at the time it submits its proposed budget recommendations for the expenditure of services and activities fees to the governing board, shall also transmit a copy of the services and activities fee committee recommendations along with any supporting documentation originally provided by the committee and a copy of the administration's response to the committee recommendations:))~~ In the event of a dispute or disputes involving the services and activities fee committee recommendations, the college or university administration shall meet with the services and activities fee committee in a good faith effort to resolve such dispute or disputes prior to submittal of final recommendations to the governing board.

(5) Before adoption of the final budget the governing board shall address areas of difference between ~~((the))~~ any committee recommendations and the administration's budget recommendations presented for adoption by the board. A student representative of the services and activities fee committee shall be given the opportunity to reasonably address the governing board concerning any such differences.

~~((5))~~ (6) Services and activities fees and revenues generated by programs and activities funded by such fees shall be deposited and expended through the office of the chief fiscal officer of the institution.

~~((6))~~ (7) Services and activities fees and revenues generated by programs and activities funded by such fees shall be subject to the applicable policies, regulations, and procedures of the institution and the budget and accounting act, chapter 43.88 RCW.

~~((7))~~ (8) All information pertaining to services and activities fees budgets shall be made available to interested parties.

(9) With the exception of any funds needed for bond covenant obligations, once the budget for expending service and activities fees is approved by the governing board, funds shall not be shifted from funds budgeted for associated students or departmentally related categories until the administration provides written justification to the committee and the governing board, or the governing board gives its express approval, or the recognized student governing organization gives its express approval.

(10) Any service and activities fees collected which exceed initially budgeted amounts are subject to subsections (1), (2), (3), and (9) of this section.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 92

[House Bill No. 244]

STATE MEDAL OF MERIT

AN ACT Relating to state government, creating the decoration of the state medal of merit; and adding a new chapter to Title 1 RCW.

Be it enacted by the Legislature of the State of Washington

NEW SECTION. Sec. 1. There is established a decoration of the state medal of merit with accompanying ribbons and appurtenances for award by the governor, in the name of the state, to any person who has been distinguished by exceptionally meritorious conduct in performing outstanding services to the people and state of Washington, upon the nomination of the governor's state medal of merit committee.

NEW SECTION. Sec. 2. There is created the state medal of merit committee for nominating candidates for the award of the state medal of merit. The committee membership consists of the governor, president of the senate, speaker of the house of representatives, and the chief justice of the supreme court, or their designees. The secretary of state shall serve as a nonvoting ex officio member, and shall serve as secretary to the committee. The committee shall meet annually to consider candidates for nomination. The committee shall adopt rules establishing the qualifications for the state medal of merit, the protocol governing the decoration, and the appurtenances necessary to the implementation of this chapter.

NEW SECTION. Sec. 3. The governor may delegate the awarding of the state medal of merit to the president of the senate, speaker of the house of representatives, or the chief justice of the supreme court.

NEW SECTION. Sec. 4. The state medal of merit may be awarded posthumously to be presented to such representative of the deceased as may

be deemed appropriate by the governor or the designees specified in section 3 of this act.

NEW SECTION. Sec. 5. The state medal of merit shall not be awarded to any elected official while in office or to any candidate for an elected office.

NEW SECTION. Sec. 6. The decoration of the state medal of merit shall be of bronze and shall consist of the seal of the state of Washington, surrounded by a raised laurel wreath and suspended from a ring attached by a dark green ribbon. The reverse of the decoration within the raised laurel wreath shall be inscribed with the words: "For exceptionally meritorious conduct in performing outstanding services to the people and state of Washington."

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 1 RCW.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 93

[House Bill No. 507]

PASSING LANE—MULTILANE HIGHWAYS

AN ACT Relating to traffic flow on multilane highways; amending RCW 46.61.100; adding a new section to chapter 46.20 RCW; adding a new section to chapter 46.81 RCW; adding a new section to chapter 46.82 RCW; adding a new section to chapter 47.36 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. It is the intent of the legislature, in this 1985 amendment of RCW 46.61.100, that the left-hand lane on any state highway with two or more lanes in the same direction be used primarily as a passing lane.

Sec. 2. Section 15, chapter 155, Laws of 1965 ex. sess. as last amended by section 1, chapter 33, Laws of 1972 ex. sess. and RCW 46.61.100 are each amended to read as follows:

(1) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the

right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(c) Upon a roadway divided into three marked lanes and providing for two-way movement traffic under the rules applicable thereon; or

(d) Upon a ~~((roadway))~~ street or highway restricted to one-way traffic.

(2) Upon all roadways ~~((any vehicle proceeding slower than the legal maximum speed or at a speed slower than necessary for safe operation at the time and place and under the conditions then existing,))~~ having two or more lanes for traffic moving in the same direction, all vehicles shall be driven in the right-hand lane then available for traffic, ((or as close as practicable to the right-hand curb or edge of the roadway,)) except (a) when overtaking and passing another vehicle proceeding in the same direction, (b) when traveling at a speed greater than the traffic flow, (c) when moving left to allow traffic to merge, or (d) when preparing for a left turn at an intersection, exit, or into a private road or driveway when such left turn is legally permitted. On any such roadway, a motor truck shall be driven only in the right-hand lane except under the conditions enumerated in (a) through (d) of this subsection.

(3) It is a traffic infraction to drive continuously in the left lane of a multilane roadway when it impedes the flow of other traffic.

(4) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, ~~((no))~~ a vehicle shall not be driven to the left of the center line of the roadway(;) except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (1)(b) ((hereof)) of this section. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

NEW SECTION. Sec. 3. A new section is added to chapter 46.20 RCW to read as follows:

The department shall include information on the proper use of the left-hand lane on multilane highways in its instructional publications for drivers.

NEW SECTION. Sec. 4. A new section is added to chapter 46.81 RCW to read as follows:

The superintendent of public instruction shall include information on the proper use of the left-hand lane on multilane highways in instructional material used in traffic safety education courses.

NEW SECTION. Sec. 5. A new section is added to chapter 46.82 RCW to read as follows:

Instructional material used in driver training schools shall include information on the proper use of the left-hand lane on multilane highways.

NEW SECTION. Sec. 6. A new section is added to chapter 47.36 RCW to read as follows:

The department shall erect signs on multilane highways indicating proper lane usage.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 94

[Substitute House Bill No. 594]

CORRECTIONAL INSTITUTIONS—COMMODITY PRODUCTION—DEVELOP PLAN— PURCHASING REQUIREMENTS—PRISON WORK PROGRAM EFFECTIVENESS

AN ACT Relating to correctional institutions; adding a new section to chapter 43.19 RCW; adding a new section to chapter 72.09 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 72.09 RCW to read as follows:

The department of corrections and department of general administration shall develop the following for legislative review: (1) A plan for production within the department of corrections of one or more commodities not currently being produced within the department for use within all state institutions and which may be sold to state correctional systems in other states; (2) a plan for purchasing commodities produced by correctional systems located in other states to the degree the plan would be cost-effective and would involve reciprocal marketing agreements between the several states represented; and (3) a plan to purchase, where cost-effective, materials used in the production of prison-made goods jointly with prison industry programs in other states. The plans shall be submitted to the legislature by March, 1987.

NEW SECTION. Sec. 2. A new section is added to chapter 43.19 RCW to read as follows:

State agencies and departments shall purchase for their use all articles or products required by the agencies or departments which are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections. These articles and products shall not be purchased from any other source unless, upon application by the department or agency: (1) The department of general administration finds that the articles or products do not meet the reasonable requirements of the agency or department, (2) are not of equal or better quality, or (3) the price of the product or service is higher than that produced by the private sector.

NEW SECTION. Sec. 3. The department of corrections shall report to the legislature by July 1, 1987, on the methods used to evaluate the effectiveness of the prison work program including the rehabilitation of inmates and reducing recidivism.

Passed the House March 8, 1986.

Passed the Senate February 27, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 95

[Substitute House Bill No. 1356]

MANDATORY ARBITRATION PROGRAM—DISPUTE RESOLUTION CENTER—JOINT FAMILY COURT SERVICES—MEDIATION

AN ACT Relating to superior courts; amending RCW 2.08.067; adding a new section to chapter 7.75 RCW; adding a new section to chapter 26.12 RCW; and adding a new section to chapter 26.09 RCW.

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

Sec. 1. Section 5, chapter 357, Laws of 1985 and RCW 2.08.067 are each amended to read as follows:

All judicial positions created by the legislature after ~~((the effective date of this act))~~ July 28, 1985, including the additional judicial positions created by ~~((sections 1 through 3, chapter 357, Laws of 1985))~~ RCW 2.08.061, 2.08.062, and 2.08.064, shall be authorized only for counties that have implemented a mandatory arbitration program for civil claims to the maximum extent permitted by law. This section does not apply to counties of the third class or smaller, or to two- and three-county judicial districts with a population of less than seventy thousand. Implementing a mandatory arbitration program to the maximum extent permitted by law does not require a county to authorize arbitration for maintenance or child support issues as provided in RCW 7.06.020(2) if:

(1) The county uses a show cause or motion by affidavit calendar, or other procedure by which maintenance or support issues are decided on a summary basis; or

(2) Upon the request of the chief administrative judge of a judicial district, the office of the administrator for the courts determines that a mandatory arbitration program would be more costly and time consuming to the county than the procedure then in use in the county for determining support or maintenance issues.

NEW SECTION. Sec. 2. A new section is added to chapter 7.75 RCW to read as follows:

(1) Members of the board of directors of a dispute resolution center are immune from suit in any civil action based upon any proceedings or other official acts performed in good faith as members of the board.

(2) Employees and volunteers of a dispute resolution center are immune from suit in any civil action based on any proceedings or other official acts performed in their capacity as employees or volunteers, except in cases of wilful or wanton misconduct.

(3) A dispute resolution center is immune from suit in any civil action based on any of its proceedings or other official acts performed by its employees, volunteers, or members or its board of directors, except (a) in cases of wilful or wanton misconduct by its employees or volunteers, and (b) in cases of official acts performed in bad faith by members of its board.

NEW SECTION. Sec. 3. A new section is added to chapter 26.12 RCW to read as follows:

(1) Any county may contract under chapter 39.34 RCW with any other county or counties to provide joint family court services.

(2) Any agreement between two or more counties for the operation of a joint family court service may provide that the treasurer of one participating county shall be the custodian of moneys made available for the purposes of the joint services, and that the treasurer may make payments from the moneys upon proper authorization.

(3) Any agreement between two or more counties for the operation of a joint family court service may also provide:

(a) For the joint provision or operation of services and facilities or for the provision or operation of services and facilities by one participating county under contract for the other participating counties;

(b) For appointments of members of the staff of the family court including the supervising counselor;

(c) That, for specified purposes, the members of the staff of the family court including the supervising counselor, but excluding the judges of the family court and other court personnel, shall be considered to be employees of one participating county;

(d) For other matters as are necessary to carry out the purposes of this chapter.

(4) The provisions of this chapter relating to family court services provided by a single county are equally applicable to counties which contract, under this section, to provide joint family court services.

NEW SECTION. Sec. 4. A new section is added to chapter 26.09 RCW 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.

Passed the House March 8, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 96

[Substitute House Bill No. 1815]

SPECIAL PARKING PRIVILEGES FOR DISABLED PERSONS

AN ACT Relating to special parking privileges for disabled persons; and amending RCW 46.16.381.

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

Sec. 1. Section 2, chapter 154, Laws of 1984 and RCW 46.16.381 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who meets one of the following criteria:

(a) Loss of both lower limbs;

(b) Loss of normal or full use of the lower limbs to sufficiently constitute a severe disability;

(c) Is so severely disabled, that the person cannot move without the aid of crutches or a wheelchair;

(d) Loss of both hands;

(e) Suffers from lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second; or

(f) Impairment by cardiovascular disease to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association.

(2) Persons with special parking privileges are entitled to receive from the department of licensing both a special card to be left in a vehicle in a conspicuous place and, for one motor vehicle only, a decal to be attached to the vehicle in a conspicuous place designated by the director. Instead of the decal and regular motor vehicle license plates, the disabled persons are entitled to receive a special license plate. The card, decal, and special license plate shall be designed to show distinguishing marks, letters, or numerals indicating that the vehicle is being used to transport a disabled person. Persons using vehicles displaying the special license plate, card, or decal shall be permitted to park in places otherwise reserved for physically disabled persons. The director shall also adopt rules providing for the issuance of special cards to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, senior citizen centers, and private nonprofit agencies as defined in chapter 24.03 RCW that regularly transport disabled persons who have been determined eligible for special parking privileges provided under this section. The special card shall be displayed in a vehicle operated when actually transporting the disabled persons. (~~The public transportation authority is~~) Public transportation authorities, nursing homes, senior citizen centers, and private nonprofit agencies are responsible for insuring that the special cards ~~((is))~~ are not used improperly and ~~((is))~~ are responsible for all fines and penalties for improper use.

(3) Whenever the disabled person transfers or assigns his or her interest in the vehicle, the special decals or license plate shall be removed from the motor vehicle. The person shall immediately surrender the decal to the director together with a notice of the transfer of interest in the vehicle. If another vehicle is acquired by, or for the primary use of, the disabled person, a new decal shall be issued by the director. If another vehicle is acquired by the disabled person and a special plate is used, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the disabled person, the removed plate shall be immediately forwarded to the director to be reissued later upon payment of the regular registration fee.

(4) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who is permanently disabled under this section shall be issued a permanent card. A person who is temporarily disabled under this section shall be issued a temporary card which shall be renewed, when required by the director, by satisfactory proof of the right to continued use of the card.

(5) Additional fees shall not be charged for the issuance of the special card and decal, and, at the time the vehicle is originally licensed in this state, no additional fee may be charged for the issuance of the special license plate except the regular motor vehicle registration fee and any other

fees and taxes required to be paid upon initial registration of a motor vehicle.

(6) Any unauthorized use of the special card, the decal, or the special license plate is a traffic infraction.

(7) It is a traffic infraction, with a monetary penalty of not less than fifteen and not more than fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for physically disabled persons without a special license plate, card, or decal. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the special license plate, card, or decal required under this section or demonstrates that the person was entitled to the special license plate, card, or decal.

(8) It is a misdemeanor for any person to wilfully obtain a special decal, license plate, or card in a manner other than that established under this section.

Passed the House February 14, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 97

[House Bill No. 1720]

BOILERS AND UNFIRED PRESSURE VESSELS—PENALTIES

AN ACT Relating to boilers and unfired pressure vessels; amending RCW 70.79.080 and 70.79.320; and prescribing penalties.

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

Sec. 1. Section 8, chapter 32, Laws of 1951 and RCW 70.79.080 are each amended to read as follows:

This chapter shall not apply to the following boilers, unfired pressure vessels and domestic hot water tanks:

(1) Boilers and unfired pressure vessels under federal regulation or operated by any railroad subject to the provisions of the interstate commerce act;

(2) Unfired pressure vessels meeting the requirements of the interstate commerce commission for shipment of liquids or gases under pressure;

(3) Air tanks located on vehicles operating under the rules of other state authorities and used for carrying passengers, or freight;

(4) Air tanks installed on the right of way of railroads and used directly in the operation of trains;

(5) Unfired pressure vessels having a volume of five cubic feet or less when not located in places of public assembly;

(6) Unfired pressure vessels designed for a pressure not exceeding fifteen pounds per square inch gauge when not located in place of public assembly;

(7) Tanks used in connection with heating water for domestic and/or residential purposes;

(8) Boilers and unfired pressure vessels in cities having ordinances which are enforced and which have requirements equal to or higher than those provided for under this chapter, covering the installation, operation, maintenance and inspection of boilers and unfired pressure vessels;

(9) Tanks containing water with no air cushion and no direct source of energy that operate at ambient temperature.

Sec. 2. Section 31, chapter 32, Laws of 1951 and RCW 70.79.320 are each amended to read as follows:

~~((After twelve months following the date on which this chapter becomes effective;))~~ (1) It shall be unlawful for any person, firm, partnership, or corporation to operate under pressure in this state a boiler or unfired pressure vessel, to which this chapter applies, without a valid inspection certificate as provided for in this chapter. ((The operation of a boiler or unfired pressure vessel without such inspection certificate, or at a pressure exceeding that specified in such inspection certificate, shall constitute a misdemeanor on the part of the owner, user, or operator thereof. Each day of such unlawful operation shall be deemed a separate offense.))

(2) The department may assess a penalty against a person violating a provision of this chapter. The penalty shall be not more than five hundred dollars. Each day that the violation continues is a separate violation and is subject to a separate penalty.

(3) The department may not assess a penalty until it adopts rules describing the method it will use to calculate penalties for various violations.

(4) The department shall notify the violator of its action, and the reasons for its action, in writing. The department shall send the notice by certified mail to the violator that a hearing may be requested under RCW 70.79.360. The hearing shall not stay the effect of the penalty.

Passed the House February 16, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 98

[Substitute House Bill No. 1869]

CRIME VICTIMS' COMPENSATION

AN ACT Relating to crime victims' compensation; amending RCW 7.68.060, 7.68.080, and 3.62.090; amending section 17, chapter 443, Laws of 1985 (uncodified); providing an effective date; and declaring an emergency.

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

Sec. 1. Section 6, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 14, chapter 443, Laws of 1985 and RCW 7.68.060 are each amended to read as follows:

(1) For the purposes of applying for benefits under this chapter, the rights, privileges, responsibilities, duties, limitations and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and 51.28.060 as now or hereafter amended shall apply: PROVIDED, That no compensation of any kind shall be available under this chapter if:

((+)) (a) An application for benefits is not received by the department within one year after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of dependents or beneficiaries accrued; or

((2)) (b) The criminal act is not reported by the victim or someone on his behalf to a local police department or sheriff's office within seventy-two hours of its occurrence or, if it could not reasonably have been reported within that period, within seventy-two hours of the time when a report could reasonably have been made.

(2) This section shall apply only to criminal acts reported after December 31, 1985.

Sec. 2. Section 8, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 3, chapter 239, Laws of 1983 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 ~~((and))~~, 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 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.

Sec. 3. Section 17, chapter 443, Laws of 1985 (uncodified) is amended to read as follows:

The amendments to RCW ~~((7.68.060 and))~~ 7.68.070 by this act apply only to criminal acts occurring after December 31, 1985.

Sec. 4. Section 337, chapter 258, Laws of 1984 and RCW 3.62.090 are each amended to read as follows:

(1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all

courts organized under Title 3 or 35 RCW a public safety and education assessment equal to sixty percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under RCW 46.61.515, and in addition to the public safety and education assessment required under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08-.250. The additional assessment required by this subsection shall not be suspended or waived by the court.

NEW SECTION. Sec. 5. Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect May 1, 1986.

Passed the House March 8, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 99

[House Bill No. 1511]

STATE WARRANTS

AN ACT Relating to state warrants; and amending RCW 43.08.062.

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

Sec. 1. Section 43.08.062, chapter 8, Laws of 1965 as amended by section 2, chapter 10, Laws of 1981 and RCW 43.08.062 are each amended to read as follows:

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

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

Passed the House February 11, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 100

[Substitute House Bill No. 1403]

FOREST PROTECTION—FIRE PROTECTION—DUTIES

AN ACT Relating to forest protection; amending RCW 43.30.300, 46.09.200, 52.18.030, 52.20.027, 70.94.760, 76.14.120, and 84.33.130; adding new sections to chapter 43.30 RCW; adding new sections to chapter 76.04 RCW; adding a new section to chapter 76.09 RCW; adding a new section to chapter 79.01 RCW; creating a new section; repealing RCW 76.04.010, 76.04.020, 76.04.030, 76.04.050, 76.04.060, 76.04.070, 76.04.080, 76.04.090, 76.04.100, 76.04.110, 76.04.120, 76.04.130, 76.04.140, 76.04.150, 76.04.170, 76.04.180, 76.04.190, 76.04.200, 76.04.210, 76.04.220, 76.04.222, 76.04.240, 76.04.242, 76.04.245, 76.04.251, 76.04.252, 76.04.270, 76.04.273, 76.04.275, 76.04.277, 76.04.280, 76.04.290, 76.04.300, 76.04.310, 76.04.340, 76.04.350, 76.04.360, 76.04.370, 76.04.380, 76.04.385, 76.04.390, 76.04.395, 76.04.400, 76.04.410, 76.04.420, 76.04.430, 76.04.440, 76.04.490, 76.04.500, 76.04.510, 76.04.515, and 76.04.520; and prescribing penalties.

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

ADMINISTRATION

NEW SECTION. Sec. 1. DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Additional fire hazard" means a condition existing on any land in the state covered wholly or in part by forest debris which is likely to further the spread of fire and thereby endanger life or property.

(2) "Closed season" means the period between April 15 and October 15, unless the department designates different dates because of prevailing fire weather conditions.

(3) "Department" means the department of natural resources, or its authorized representatives, as defined in chapter 43.30 RCW.

(4) "Department protected lands" means all lands subject to the forest protection assessment under section 35 of this act or covered under contract or agreement pursuant to section 14 of this act by the department.

(5) "Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of personnel, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which the costs occur.

(6) "Forest debris" includes forest slash, chips, and any other vegetative residue resulting from activities on forest land.

(7) "Forest fire service" includes all wardens, rangers, and other persons employed especially for preventing or fighting forest fires.

(8) "Forest land" means any unimproved lands which have enough trees, standing or down, or flammable material, to constitute in the judgment of the department, a fire menace to life or property. Sagebrush and grass areas east of the summit of the Cascade mountains may be considered forest lands when such areas are adjacent to or intermingled with areas supporting tree growth. Forest land, for protection purposes, does not include structures.

(9) "Forest landowner," "owner of forest land," "landowner," or "owner" means the owner or the person in possession of any public or private forest land.

(10) "Forest material" means forest slash, chips, timber, standing or down, or other vegetation.

(11) "Landowner operation" means every activity, and supporting activities, of a forest landowner and the landowner's agents, employees, or independent contractors or permittees in the management and use of forest land subject to the forest protection assessment under section 35 of this act for the primary benefit of the owner. The term includes, but is not limited to, the growing and harvesting of forest products, the development of transportation systems, the utilization of minerals or other natural resources, and the clearing of land. The term does not include recreational and/or residential activities not associated with these enumerated activities.

(12) "Participating landowner" means an owner of forest land whose land is subject to the forest protection assessment under section 35 of this act.

(13) "Slash" means organic forest debris such as tree tops, limbs, brush, and other dead flammable material remaining on forest land as a result of a landowner operation.

(14) "Slash burning" means the planned and controlled burning of forest debris on forest lands by broadcast burning, underburning, pile burning, or other means, for the purposes of silviculture, hazard abatement, or reduction and prevention or elimination of a fire hazard.

(15) "Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or considered by the department to pose no further threat to life or property.

(16) "Unimproved lands" means those lands that will support grass, brush and tree growth, or other flammable material when such lands are not cleared or cultivated and, in the opinion of the department, are a fire menace to life and property.

NEW SECTION. Sec. 2. FIRE PROTECTION DUTIES OF DEPARTMENT. (1) The department may, at its discretion, appoint trained personnel possessing the necessary qualifications to carry out the duties and supporting functions of the department and may determine their respective salaries.

(2) The department shall have direct charge of and supervision of all matters pertaining to the forest fire service of the state.

(3) The department shall:

(a) Enforce all laws within this chapter;

(b) Be empowered to take charge of and direct the work of suppressing forest fires;

(c) Investigate the origin and cause of all forest fires;

(d) Furnish notices or information to the public calling attention to forest fire dangers and the penalties for violation of this chapter;

(e) Be familiar with all timbered and cut-over areas of the state; and

(f) Regulate and control the official actions of its employees, the wardens, and the rangers.

(4) The department may:

(a) Authorize all needful and proper expenditures for forest protection;

(b) Adopt rules for the prevention, control, and suppression of forest fires as it considers necessary including but not limited to: Fire equipment and materials; use of personnel; and fire prevention standards and operating conditions including a provision for reducing these conditions where justified by local factors such as location and weather;

(c) Remove at will the commission of any ranger or suspend the authority of any warden;

(d) Inquire into:

(i) The extent, kind, value, and condition of all timber lands within the state;

(ii) The extent to which timber lands are being destroyed by fire and the damage thereon.

(5) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in forest fire fighting and patrol.

NEW SECTION. Sec. 3. FEDERAL FUNDS. The department shall receive and disburse any and all moneys contributed, allotted, or paid by the United States under the authority of any act of Congress for use in cooperation with the state of Washington in protecting and developing forests.

NEW SECTION. Sec. 4. WARDENS—APPOINTMENT—DUTIES. (1) The department may appoint any of its employees as wardens, at the times and localities as it considers the public welfare demands, within any area of the state where there is forest land requiring protection.

(2) The duties of wardens shall be:

(a) To provide forest fire prevention and protection information to the public;

(b) To investigate discovered or reported fires on forest lands and take appropriate action;

(c) To patrol their areas as necessary;

(d) To visit all parts of their area, and frequented places and camps as far as possible, and warn campers or other users and visitors of fire hazards;

(e) To see that all locomotives and all steam, internal combustion, and other spark-emitting equipment are provided with spark arresters and adequate devices for preventing the escape of fire or sparks in accordance with the law;

(f) To see that operations or activities on forest land have all required fire prevention and suppression equipment or devices as required by law;

(g) To extinguish wildfires;

(h) To set back-fires to control fires;

(i) To summons, impress, and employ help in controlling wildfires;

(j) To see that all laws for the protection of forests are enforced;

(k) To investigate, arrest, and initiate prosecution of all offenders of this chapter or other chapters as allowed by law; and

(l) To perform all other duties as prescribed by law and as the department directs.

(3) All wardens and rangers shall render reports to the department on blanks or forms, or in the manner and at the times as may be ordered, giving a summary of how employed, the area visited, expenses incurred, and other information as required by the department.

(4) The department may suspend the authority of any warden who may be incompetent or unwilling to discharge properly the duties of the office.

(5) The department shall determine the placement of the wardens and, upon its request to the county commissioners of any county, the county commissioners shall designate and furnish the wardens with suitably equipped office quarters in the county courthouse.

(6) The authority of the wardens regarding the prevention, suppression, and control of forest fires, summoning, impressing, or employing help, or making arrests for violations of this chapter may extend to any part of the state.

NEW SECTION, Sec. 5. RANGERS—APPOINTMENT—EX OFFICIO RANGERS—COMPENSATION. (1) All Washington state patrol officers, wildlife agents, fisheries patrol officers, deputy state fire marshals, and state park rangers, while in their respective jurisdictions, shall be ex officio rangers.

(2) Employees of the United States forest service, when recommended by their forest supervisor, and citizens of the state advantageously located

may, at the discretion of the department, be commissioned as rangers and vested with the certain powers and duties of wardens as specified in this chapter and as directed by the department.

(3) Rangers shall receive no compensation for their services except when employed in cooperation with the state and under the provisions of this chapter and shall not create any indebtedness or incur any liability on behalf of the state: PROVIDED, That rangers actually engaged in extinguishing or preventing the spread of fire on forest land or elsewhere that may endanger forest land shall, when their accounts for such service have been approved by the department, be entitled to receive compensation for such services at a rate to be fixed by the department.

(4) The department may cancel the commission of any ranger or authority granted to any ex officio ranger who may be incompetent or unwilling to discharge properly the duties of the office.

NEW SECTION. Sec. 6. SERVICE OF NOTICES. Any notice required by law to be served by the department, warden, or ranger shall be sufficient if a written or printed copy thereof is delivered, mailed, telegraphed, or electronically transmitted by the department, warden, or ranger to the person to receive the notice or to his or her responsible agent. If the name or address of the person or agent is unknown and cannot be obtained by reasonable diligence, the notice may be served by posting the copy in a conspicuous place upon the premises concerned by the notice.

NEW SECTION. Sec. 7. ARRESTS WITHOUT WARRANTS. Department employees appointed as wardens, persons commissioned as rangers, and all police officers may arrest persons violating this chapter, without warrant, as prescribed by law.

NEW SECTION. Sec. 8. RULES—PENALTY. Any person who violates any of the orders or rules adopted under this chapter for the protection of forests from fires is guilty of a misdemeanor and subject to the penalties for a misdemeanor under RCW 9A.20.021, unless another penalty is provided.

NEW SECTION. Sec. 9. PENALTY FOR VIOLATIONS. Unless specified otherwise, violations of the provisions of this chapter shall be a misdemeanor and subject to the penalties for a misdemeanor under RCW 9A.20.021.

NEW SECTION. Sec. 10. COOPERATIVE PROTECTION. When any responsible protective agency or agencies composed of timber owners other than the state agrees to undertake systematic forest protection in cooperation with the state and such cooperation appears to the department to be more advantageous to the state than the state-provided forest fire services, the department may designate suitable areas to be official cooperative districts and substitute cooperative services for the state-provided services.

The department may cooperate in the compensation for expenses of preventing and controlling fire in cooperative districts to the extent it considers equitable on behalf of the state.

NEW SECTION. Sec. 11. **CONTRACTS FOR PROTECTION AND DEVELOPMENT.** The department may enter into contracts and undertakings with private corporations for the protection and development of the forest lands within the state, subject to the provisions of this chapter.

NEW SECTION. Sec. 12. **ARTICLES OF INCORPORATION—REQUIREMENTS.** Before any private corporation may enter into any contract under section 11 of this act, there shall be incorporated into the articles of incorporation or charter of such corporation a provision requiring that the corporation, out of its earnings or earned surplus, and in a manner satisfactory to the department, annually set apart funds to discharge any contract entered into between such corporation and the department.

NEW SECTION. Sec. 13. **REQUISITES OF CONTRACT.** Any undertaking for the protection and development of the forest lands of the state under section 11 of this act shall be regulated and controlled by a contract to be entered into between the private corporation and the department. The contract shall outline the lands involved and the conditions and details of the undertaking, including an exact specification of the amount of funds to be made available by the corporation and the time and manner of disbursement. Before entering into any such contract, the department shall be satisfied that the private corporation is financially solvent and will be able to carry out the project outlined in the contract. The department shall have charge of the project for the protection and development of the forest lands described in the contract, and any expense incurred by the department under any such contract shall be payable solely by the corporation from the funds provided by it for these purposes. The state of Washington shall not in any event be responsible to any person, firm, company, or corporation for any indebtedness created by any corporation under a contract pursuant to section 11 of this act.

NEW SECTION. Sec. 14. **COOPERATIVE AGREEMENTS—PUBLIC AGENCIES.** (1) For the purpose of promoting and facilitating cooperation between fire protection agencies and to more adequately protect life, property, and the natural resources of the state, the department may enter into a contract or agreement with a municipality, county, state, or federal agency to provide fire detection, prevention, presuppression, or suppression services on property which they are responsible to protect.

(2) Contracts or agreements under subsection (1) of this section may contain provisions for the exchange of services on a cooperative basis or services in return for cash payment or other compensation.

(3) No charges may be made when the department determines that under a cooperative contract or agreement the assistance received from a

municipality, county, or federal agency on state protected lands equals that provided by the state on municipal, county, or federal lands.

NEW SECTION. Sec. 15. FOREST FIRE ADVISORY BOARD. (1) There is hereby created a forest fire advisory board, consisting of seven members who shall represent private and public forest landowners and other interested segments of the public. The members shall be appointed by the commissioner of public lands and shall serve at the commissioner's pleasure, without compensation.

(2) The duties of the forest fire advisory board shall be strictly advisory and shall include, but not necessarily be limited to:

(a) Reviewing forest fire prevention and suppression policies of the department;

(b) Monitoring expenditures from and recoveries for the landowner contingency forest fire suppression account;

(c) Recommending appropriate assessments and allocations for establishment and replenishment of the account based upon the proportionate expenditures necessitated by participating landowner operations in western and eastern Washington;

(d) Recommending to the department appropriate rules or amendments to existing rules and reviewing nonemergency rules affecting the protection of forest lands from fire, including reasonable alternative means or procedures for the abatement, isolation, or reduction of forest fire hazards.

(3) Except where an emergency exists, all rules concerning matters listed in subsection (2)(d) of this section shall be adopted by the department after consultation with the forest fire advisory board.

NEW SECTION. Sec. 16. FIRE FIGHTING—EMPLOYMENT—ASSISTANCE. (1) The department may employ a sufficient number of persons to extinguish or prevent the spreading of any fire that may be in danger of damaging or destroying any timber or other property on department protected lands. The department may provide needed tools and supplies and may provide transportation when necessary for persons so employed.

(2) Every person so employed is entitled to compensation at a rate to be fixed by the department. The department shall, upon request, show the person the number of hours worked by that person and the rate established for payment. After approval of the department, that person is entitled to receive payment from the state.

(3) It is unlawful to fail to render assistance when called upon by the department to aid in guarding or extinguishing any fire.

PERMITS

NEW SECTION. Sec. 17. BURNING PERMITS. (1) Except in certain areas designated by the department or as permitted under rules adopted by the department, a person shall have a valid written burning permit obtained from the department to burn:

(a) Any flammable material on any lands under the protection of the department; or

(b) Refuse or waste forest material on forest lands protected by the department.

(2) To be valid a permit must be signed by both the department and the permittee. Conditions may be imposed in the permit for the protection of life, property, or air quality and may suspend or revoke the permits when conditions warrant. A permit shall be effective only under the conditions and for the period stated therein. Signing of the permit shall indicate the permittee's agreement to and acceptance of the conditions of the permit.

(3) The department may inspect or cause to be inspected the area involved and may issue a burning permit if:

(a) All requirements relating to fire fighting equipment, the work to be done, and precautions to be taken before commencing the burning have been met;

(b) No unreasonable danger will result; and

(c) Burning will be done in compliance with air quality standards established by chapter 70.94 RCW.

(4) The department, authorized employees thereof, or any warden or ranger may refuse, revoke, or postpone the use of permits to burn when necessary for the safety of adjacent property or when necessary in their judgment to prevent air pollution as provided in chapter 70.94 RCW.

NEW SECTION. Sec. 18. BURNING MILL WOOD WASTE—ARRESTERS. (1) It is unlawful for anyone manufacturing lumber or shingles, or other forest products, to destroy wood waste material by burning within one-fourth of one mile of any forest material without properly confining the place of the burning and without further safeguarding the surrounding property against danger from the burning by such additional devices as the department may require.

(2) It is unlawful for anyone to destroy any wood waste material by fire within any burner or destructor operated within one-fourth of one mile of any forest material, or to operate any power-producing plant using in connection therewith any smokestack, chimney, or other spark-emitting outlet, without installing and maintaining on such burner, or destructor, or on such smokestack, chimney, or other spark-emitting outlet, a safe and suitable device for arresting sparks.

NEW SECTION. Sec. 19. DUMPING MILL WASTE, FOREST DEBRIS—PROHIBITED—PENALTY. (1) No person may dump

mill waste from forest products, or forest debris of any kind, in quantities that the department declares to constitute a forest fire hazard on or threatening forest lands located in this state without first obtaining a written permit issued by the department on such terms and conditions determined by the department pursuant to rules enacted to protect forest lands from fire. The permit is in addition to any other permit required by law.

(2) Any person who dumps such mill waste, or forest debris, without a permit, or in violation of a permit is guilty of a gross misdemeanor and subject to the penalties for a gross misdemeanor under RCW 9A.20.021 and may further be required to remove all materials dumped.

NEW SECTION. Sec. 20. BLASTING FUSE REGULATIONS. It is unlawful to use fuse for blasting on any area of logging slash or area of actual logging operation without a permit during the closed season. Upon the issuance of a written permit by the department or warden or ranger, fuse may be used during the closed season under the conditions specified in the permit.

CLOSURES/SUSPENSIONS

NEW SECTION. Sec. 21. CLOSED TO ENTRY—DESIGNATION. (1) When, in the opinion of the department, any forest land is particularly exposed to fire danger, the department may designate such land as a region of extra fire hazard subject to closure, and the department shall adopt rules for the protection thereof.

(2) All such rules shall be published in such newspapers of general circulation in the counties wherein such region is situated and for such length of time as the department may determine.

(3) When in the opinion of the department it becomes necessary to close the region to entry, posters carrying the wording "Region of extra fire hazard—CLOSED TO ENTRY—except as provided by section 21 of this act" and indicating the beginning and ending dates of the closures shall be posted on the public highways entering the regions.

(4) The rules shall be in force from the time specified therein, but when in the opinion of the department such forest region continues to be exposed to fire danger, or ceases to be so exposed, the department may extend, suspend, or terminate the closure by proclamation.

(5) This section does not authorize the department to prohibit the conduct of industrial operations, public work, or access of permanent residents to their own property within the closed area, but no one legally entering the region of extra fire hazard may use the area for recreational purposes which are prohibited to the general public under the terms of this section.

NEW SECTION. Sec. 22. SUSPENSION OF BURNING PERMITS/PRIVILEGES. In times and localities of unusual fire danger, the department may issue an order suspending any or all burning permits or

privileges authorized by section 17 of this act and may prohibit absolutely the use of fire in such locations.

NEW SECTION. Sec. 23. CLOSURE OF FOREST OPERATIONS OR FOREST LANDS. (1) When in the opinion of the department weather conditions arise which present an extreme fire hazard, whereby life and property may be endangered, the department may issue an order shutting down all logging, land clearing, or other industrial operations which may cause a fire to start. The shutdown shall be for the periods and regions designated in the order. During shutdowns, all persons are excluded from logging operating areas and areas of logging slash, except those present in the interest of fire protection.

(2) When in the opinion of the department extreme fire weather exists, whereby forest lands may be endangered, the department may issue an order restricting access to and activities on forest lands. The order shall describe the regions and extent of restrictions necessary to protect forest lands. During the period in which the order is in effect, all persons may be excluded from the regions described, except those persons present in the interest of fire protection.

(3) Each day's violation of an order under this section shall constitute a separate offense.

FIRE PROTECTION REGULATION

NEW SECTION. Sec. 24. STEAM, INTERNAL COMBUSTION, OR ELECTRICAL ENGINES AND OTHER SPARK-EMITTING EQUIPMENT REGULATED. It is unlawful during the closed season for any person to operate any steam, internal combustion, or electric engine, or any other spark-emitting equipment or device, on any forest land or in any place where, in the opinion of the department, fire could spread to forest land, without first complying with the requirements as may be established by the department by rule pursuant to this chapter.

NEW SECTION. Sec. 25. PENALTY FOR VIOLATIONS—WORK STOPPAGE NOTICE. (1) Every person upon receipt of written notice issued by the department that such person has or is violating any of the provisions of section 18, 21, 24, or 38 of this act or any rule adopted by the department concerning fire prevention and fire suppression preparedness shall cease operations until compliance with the provisions of the sections or rules specified in such notice.

(2) The department may specify in the notice of violation the special conditions and precautions under which the operation would be allowed to continue until the end of that working day.

NEW SECTION. Sec. 26. UNAUTHORIZED ENTRY INTO SEALED TOOL BOX. It is unlawful to enter into a sealed fire tool box without authorization.

NEW SECTION. Sec. 27. DEPOSIT OF FIRE OR LIVE COALS.

No person operating a railroad may permit to be deposited by any employee, and no one may deposit fire or live coals, upon the right of way within one-fourth of one mile of any forest material, during the closed season, unless the fire or live coals are immediately extinguished.

NEW SECTION. Sec. 28. REPORTS OF FIRE. (1) Any person engaged in any activity on forest lands shall immediately report to the department, in person or by radio, telephone, or telegraph, any fires on forest lands.

(2) Railroad companies and other public carriers operating on or through forest lands shall immediately report to the department, in person or by radio, telephone, or telegraph, any fires on or adjacent to their right of way or route.

NEW SECTION. Sec. 29. LIGHTED MATERIAL, ETC.—RECEPTACLES IN CONVEYANCES. (1) It is unlawful during the closed season for any person to throw away any lighted tobacco, cigars, cigarettes, matches, fireworks, charcoal, or other lighted material or to discharge any tracer or incendiary ammunition in any forest, brush, range, or grain areas.

(2) It is unlawful during the closed season for any individual to smoke any flammable material when in forest or brush areas except on roads, cleared landings, gravel pits, or any similar area free of flammable material.

(3) Every conveyance operated through or above forest, range, brush, or grain areas shall be equipped in each compartment with a suitable receptacle for the disposition of lighted tobacco, cigars, cigarettes, matches, or other flammable material.

(4) Every person operating a public conveyance through or above forest, range, brush, or grain areas shall post a copy of this section in a conspicuous place within the smoking compartment of the conveyance; and every person operating a saw mill or a logging camp in any such areas shall post a copy of this section in a conspicuous place upon the ground or buildings of the milling or logging operation.

NEW SECTION. Sec. 30. CERTAIN SNAGS TO BE FELLED CURRENTLY WITH LOGGING. Standing dead trees constitute a substantial deterrent to effective fire control action in forest areas, but are also an important and essential habitat for many species of wildlife. To insure continued existence of these wildlife species and continued forest growth while minimizing the risk of destruction by conflagration, only certain snags must be felled currently with the logging. The department shall adopt rules relating to effective fire control action to require that only certain snags be felled, taking into consideration the need to protect the wildlife habitat.

NEW SECTION. Sec. 31. REIMBURSEMENT FOR COSTS OF SUPPRESSION ACTION. Any person, firm, or corporation, public or private, obligated to take suppression action on any forest fire is entitled to reimbursement for reasonable costs incurred, subject to the following:

(1) No reimbursement is allowed under this section to a person, firm, or corporation whose negligence is responsible for the starting or existence of any fire for which costs may be recoverable pursuant to law. Reimbursement for fires resulting from slash burns are subject to section 32 of this act.

(2) If the fire is started in the course of or as a result of land clearing operations, right of way clearing, or a landowner operation, the person, firm, or corporation conducting the operation shall supply:

(a) At no cost to the department, all equipment and able-bodied persons under contract, control, employment, or ownership that are requested by the department and are reasonably available until midnight of the day on which the fire started; and

(b) After midnight of the day on which the fire started, at no cost to the department, all equipment and able-bodied persons under contract, control, employment, or ownership that were within a one-half mile radius of the fire at the time of discovery, until the fire is declared out by the department. In no case may the person, firm, or corporation provide less than one suitable bulldozer and five able-bodied persons, or other equipment accepted by the department as equivalent, unless the department determines less is needed for the purpose of suppressing the fire; and

(c) If the person, firm, or corporation has no personnel or equipment within one-half mile of the fire, payment shall be made to the department for the minimum requirement of one suitable bulldozer and five able-bodied persons, for the duration of the fire; and

(d) If, after midnight of the day on which the fire started, additional personnel and equipment are requested by the department, the person, firm, or corporation shall supply the personnel and equipment under contract, control, employment, or ownership outside the one-half mile radius, if reasonably available, but shall be reimbursed for such personnel and equipment as provided in subsection (4) of this section.

(3) When a fire which occurred in the course of or as a result of land clearing operations, right of way clearing, or a landowner operation, which had previously been suppressed, rekindles, the person, firm, or corporation shall supply the same personnel and equipment, under the same conditions, as were required at the time of the original fire.

(4) Claims for reimbursement shall be submitted within a reasonable time to the department which shall upon verifying the amounts therein and the necessity thereof authorize payment at such rates as established by the department for wages and equipment rental.

NEW SECTION. Sec. 32. ESCAPED SLASH BURNS—OBLIGATIONS. (1) All personnel and equipment required by the burning permit issued for a slash burn may be required by the department, at the permittee's expense, for suppression of a fire resulting from the slash burn until the fire is declared out by the department. In no case may the permittee provide less than one suitable bulldozer and five persons capable of taking suppression action. In addition, if a slash burn becomes an uncontrolled fire the department may recover from the landowner the actual costs incurred in suppressing the fire. The amount collected from the landowner shall be limited to and calculated at the rate of one dollar per acre for the landowner's total forest lands protected by the department, up to a maximum charge of fifty thousand dollars per escaped slash burn.

(2) The landowner contingency forest fire suppression account shall be used to pay and the permittee shall not be responsible for fire suppression expenditures greater than fifty thousand dollars or the total amount calculated for forest lands owned as determined in subsection (1) of this section for each escaped slash burn.

(3) All expenses incurred in suppressing a fire resulting from a slash burn in which negligence was involved shall be the obligation of the landowner.

NEW SECTION. Sec. 33. NEGLIGENCE STARTING OF FIRES—EXISTENCE OF EXTREME FIRE HAZARD OR FOREST DEBRIS—LIABILITY FOR COSTS—RECOVERY. (1) Any person, firm, or corporation: (a) Whose negligence is responsible for the starting or existence of a fire which spreads on forest land; or (b) who creates or allows an extreme fire hazard under section 39 of this act to exist and which hazard contributes to the spread of a fire; or (c) who allows forest debris subject to section 38 of this act to exist and which debris contributes to the spread of fire, shall be liable for any expenses made necessary by (a), (b), or (c) of this subsection incurred by the state, a municipality, or a forest protective association, in fighting the fire, together with costs of investigation and litigation including reasonable attorneys' fees and taxable court costs, if the expense was authorized or subsequently approved by the department.

(2) The department or agency incurring such expense shall have a lien for the same against any property of the person, firm, or corporation liable under subsection (1) of this section by filing a claim of lien naming the person, firm, or corporation, describing the property against which the lien is claimed, specifying the amount expended on the lands on which the fire fighting took place and the period during which the expenses were incurred, and signing the claim with post office address. No claim of lien is valid unless filed, with the county auditor of the county in which the property sought to be charged is located, within a period of ninety days after the expenses of the claimant are incurred. The lien may be foreclosed in the same

manner as a mechanic's lien is foreclosed under the statutes of the state of Washington.

ASSESSMENTS, OBLIGATIONS, FUNDS

NEW SECTION. Sec. 34. OWNERS TO PROTECT FORESTS. Every owner of forest land in the state of Washington shall furnish or provide, during the season of the year when there is danger of forest fires, adequate protection against the spread of fire thereon or therefrom which shall meet with the approval of the department.

NEW SECTION. Sec. 35. FOREST FIRE PROTECTION ASSESSMENT. If any owner of forest land neglects or fails to provide adequate fire protection as required by section 34 of this act, the department shall provide such protection, notwithstanding the provisions of section 37 of this act, at a cost to the owner of not to exceed twenty-one 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: PROVIDED, That (1) 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; (2) for lands not exempt under (1) of this proviso, the cost for any ownership parcel containing less than thirty acres shall not be less than five dollars and ten cents east of the Cascade mountains and six dollars and thirty cents west of the Cascade mountains; and (3) an owner of two or more parcels per county, each containing less than thirty 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 of natural resources, in such form as the department may require, upon showing to the satisfaction of the department that all assessments and property taxes on the property have been paid, but if the total acreage of the parcels exceed thirty acres, the per-acre rate shall apply and the refund shall be computed accordingly. Application for the refund may be made by mail.

For the purpose of this chapter, the supervisor 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 lands from any funds at the supervisor's 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 the department

of natural resources to the assessor of the county in which the property is situated who shall extend the amounts upon the tax rolls covering the property, or the county assessor shall upon authorization from the supervisor of the department of natural resources levy the forest fire 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 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.

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 supervisor of the department of natural resources 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 supervisor of the department of natural resources to 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 section 39 of this act.

When land against which forest fire 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, and the county treasurer in case the proceeds of sale exceed the amount of the delinquent tax judgment shall forthwith remit to the supervisor of the department of natural resources the amount of the outstanding forest fire protection assessments.

All public bodies owning or administering forest lands shall pay the forest fire protection assessments provided in this section and the special forest fire suppression account assessments under section 37 of this act. The forest fire protection assessments and special forest fire suppression account assessments shall be payable by public bodies from any available funds within thirty days following receipt of the written notice from the department which is given after October 1st of the year in which the protection was provided. Unpaid assessments shall not be a lien against the publicly owned land but shall constitute a debt by the public body to the department and shall be subject to interest charges in the same amount as other unpaid forest fire protection assessments.

A public body, having failed to previously pay forest fire 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.

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.

The supervisor of the department of natural resources may adopt rules to implement this section, including, but not limited to, rules on the levying and collecting of forest fire protection assessments.

NEW SECTION. Sec. 36. STATE FUNDS—LOANS—RECOVERY OF FUNDS FROM THE LANDOWNER CONTINGENCY FIRE SUPPRESSION ACCOUNT. Biennial general fund appropriations to the department of natural resources normally provide funds for the purpose of paying the emergency fire costs and expenses incurred and/or approved by the department in forest fire suppression or in reacting to any potential forest fire situation. When a determination is made that the fire started in the course of or as a result of a landowner operation, moneys expended from such appropriations in the suppression of the fire shall be recovered from the landowner contingency forest fire suppression account. The department shall transmit to the state treasurer for deposit in the general fund any such moneys which are later recovered. Moneys recovered during the biennium in which they are expended may be spent for purposes set forth in this section during the same biennium, without reappropriation. Loans between the general fund and the landowner contingency forest fire suppression account are authorized for emergency fire suppression. The loans shall not exceed the amount appropriated for emergency forest fire suppression costs and shall bear interest at the then current rate of interest as determined by the state treasurer.

NEW SECTION. Sec. 37. LANDOWNER CONTINGENCY FOREST FIRE SUPPRESSION ACCOUNT. 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. 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 rates to be established by the department, but not to exceed ten 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 million dollars: PROVIDED, That the department may establish a minimum assessment for ownership parcels containing less than thirty acres. 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 section 33 of this act 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 under chapter 34.04 RCW and any appeal therefrom shall be to the superior court of Thurston county.

HAZARD ABATEMENT

NEW SECTION. Sec. 38. DISPOSAL OF FOREST DEBRIS—
PERMISSION TO ALLOW TREES TO FALL ON ANOTHER'S
LAND. Everyone clearing land or clearing right of way for railroad, public

highway, private road, ditch, dike, pipe or wire line, or for any other transmission, or transportation utility right of way, shall pile and burn or dispose of by other satisfactory means, all forest debris cut thereon, as rapidly as the clearing or cutting progresses, or at such other times as the department may specify, and if during the closed season, in compliance with the law requiring burning permits.

No person clearing any land or right of way, or in cutting or logging timber for any purpose, may fell, or permit to be felled, any trees so that they may fall onto land owned by another without first obtaining permission from the owner in addition to complying with the terms of this section for the disposal of refuse. All the terms of this section and other forest laws of the state shall be observed in all clearings of right of way or other land on behalf of the state itself or any county thereof, either directly or by contract, and, unless unavoidable emergency prevents, provision shall be made by all officials directing the work for withholding a sufficient portion of the payment therefor until the disposal is completed, to insure the completion of the disposal in compliance with this section.

**NEW SECTION. Sec. 39. ADDITIONAL FIRE HAZARDS—
EXTREME FIRE HAZARD AREAS—ABATEMENT, ISOLATION
OR REDUCTION—SUMMARY ACTION—RECOVERY OF
COSTS.** (1) The owner of land which is an additional fire hazard and the person responsible for the existence of an additional fire hazard shall take reasonable measures to reduce the danger of fire spreading from the area and may abate the hazard by burning or other satisfactory means.

(2) The department shall adopt rules defining areas of extreme fire hazard that the owner and person responsible shall abate. The areas shall include but are not limited to high risk areas such as where life or buildings may be endangered, areas adjacent to public highways, and areas of frequent public use.

(3) The department may adopt rules, after consultation with the forest fire advisory board, defining other conditions of extreme fire hazard with a high potential for fire spreading to lands in other ownerships. The department may prescribe additional measures that shall be taken by the owner and person responsible to isolate or reduce the extreme fire hazard.

(4) The owner or person responsible for the existence of the extreme fire hazard is required to abate, isolate, or reduce the hazard. The duty to abate, isolate, or reduce, and liability under this chapter, arise upon creation of the extreme fire hazard. Liability shall include but not be limited to all fire suppression expenses incurred by the department, regardless of fire cause.

(5) If the owner or person responsible for the existence of the extreme fire hazard or forest debris subject to section 38 of this act refuses, neglects, or unsuccessfully attempts to abate, isolate, or reduce the same, the department may summarily abate, isolate, or reduce the hazard as required by this

chapter and recover twice the actual cost thereof from the owner or person responsible. Landowner contingency forest fire suppression account moneys may be used by the department, when available, for this purpose. Moneys recovered by the department pursuant to this section shall be returned to the landowner contingency forest fire suppression account.

(6) Such costs shall include all salaries and expenses of people and equipment incurred therein, including those of the department. All such costs shall also be a lien upon the land enforceable in the same manner with the same effect as a mechanic's lien.

(7) The summary action may be taken only after ten days' notice in writing has been given to the owner or reputed owner of the land on which the extreme fire hazard or forest debris subject to section 38 of this act exists. The notice shall include a suggested method of abatement and estimated cost thereof. The notice shall be by personal service or by registered or certified mail addressed to the owner or reputed owner at the owner's last known place of residence.

FIRE REGULATION

NEW SECTION. Sec. 40. FAILURE TO EXTINGUISH CAMP-FIRE. It is unlawful for any person to start any fire upon any camping ground and upon leaving the camping ground fail to extinguish the fire.

NEW SECTION. Sec. 41. WILFUL SETTING OF FIRE. It is unlawful for any person to wilfully start a fire, whether on his or her land or the land of another, whereby forest lands or the property of another is endangered, under circumstances not amounting to arson in either the first or second degree or reckless burning in either the first or second degree.

NEW SECTION. Sec. 42. REMOVAL OF NOTICES. It is unlawful for any person to wilfully and without authorization deface or remove any warning notice posted under the requirements of this chapter.

NEW SECTION. Sec. 43. NEGLIGENT FIRE—SPREAD. It is unlawful for any person to negligently allow fire originating on the person's own property to spread to the property of another.

NEW SECTION. Sec. 44. RECKLESS BURNING. (1) It is unlawful to knowingly cause a fire or explosion and thereby place forest lands in danger of destruction or damage.

(2) This section does not apply to acts amounting to reckless burning in the first degree under RCW 9A.48.040.

(3) Terms used in this section shall have the meanings given to them in Title 9A RCW.

(4) A violation of this section shall be punished as a gross misdemeanor under RCW 9A.20.021.

NEW SECTION. Sec. 45. UNCONTROLLED FIRE A PUBLIC NUISANCE—SUPPRESSION—DUTIES—SUMMARY ACTION—RECOVERY OF COSTS. Any fire on or threatening any forest land burning uncontrolled and without proper action being taken to prevent its spread, notwithstanding the origin of the fire, is a public nuisance by reason of its menace to life and property. Any person engaged in any activity on such lands, having knowledge of the fire, notwithstanding the origin or subsequent spread thereof on his or her own or other forest lands, and the landowner, shall make every reasonable effort to suppress the fire. If the person has not suppressed the fire, the department shall summarily suppress the fire. If the owner, lessee, other possessor of such land, or an agent or contractor of the owner, lessee, or possessor, having knowledge of the fire, has not made a reasonable effort to suppress the fire, the cost thereof may be recovered from the owner, lessee, or other possessor of the land and the cost of the work shall also constitute a lien upon the real property or chattels under the person's ownership. The lien may be filed by the department in the office of the county auditor and foreclosed in the same manner provided by law for the foreclosure of mechanics' liens. The prosecuting attorney shall bring the action to recover the cost or foreclose the lien, upon the request of the department. In the absence of negligence, no costs, other than those provided in section 31 of this act, shall be recovered from any landowner for lands subject to the forest fire protection assessment with respect to the land on which the fire burns.

When a fire occurs in a land clearing, right of way clearing, or landowner operation it shall be fought to the full limit of the available employees and equipment, and the fire fighting shall be continued with the necessary crews and equipment in such numbers as are, in the opinion of the department, sufficient to suppress the fire. The fire shall not be left without a fire fighting crew or fire patrol until authority has been granted in writing by the department.

MISCELLANEOUS

NEW SECTION. Sec. 46. A new section is added to chapter 43.30 RCW to read as follows:

CLARKE-MCNARY FUND. The department and Washington State University may each receive funds from the federal government in connection with cooperative work with the United States department of agriculture, authorized by sections 4 and 5 of the Clarke-McNary act of congress, approved June 7, 1924, providing for the procurement, protection, and distribution of forestry seed and plants for the purpose of establishing windbreaks, shelter belts, and farm wood lots and to assist the owners of farms in establishing, improving, and renewing wood lots, shelter belts, and windbreaks; and are authorized to disburse such funds as needed.

NEW SECTION. Sec. 47. A new section is added to chapter 43.30 RCW to read as follows:

COOPERATIVE FARM FORESTRY FUNDS. The department and Washington State University may each receive funds from the federal government for cooperative work, as authorized by the cooperative forest management act of congress, approved May 18, 1937, and as subsequently authorized by any amendments to or substitutions for that act, for all purposes authorized by those acts, and to disburse the funds in cooperation with the federal government in accordance therewith.

NEW SECTION. Sec. 48. A new section is added to chapter 79.01 RCW to read as follows:

DEPARTMENT AUTHORITY TO ACCEPT LAND. The department is hereby authorized, when in its judgment it appears advisable, to accept on behalf of the state, any grant of land within the state which shall then become a part of the state forests. No grant may be accepted until the title has been examined and approved by the attorney general of the state and a report made to the board of natural resources of the result of the examination.

NEW SECTION. Sec. 49. A new section is added to chapter 76.09 RCW to read as follows:

INSPECTION OF LANDS—REFORESTATION. The department shall inspect, or cause to be inspected, deforested lands of the state and ascertain if the lands are valuable chiefly for agriculture, timber growing, or other purposes, with a view to reforestation.

NEW SECTION. Sec. 50. A new section is added to chapter 43.30 RCW to read as follows:

DUTIES OF THE DEPARTMENT. (1) The department may:

(a) Inquire into the production, quality, and quantity of second growth timber to ascertain conditions for reforestation; and

(b) Publish information pertaining to forestry and forest products which it considers of benefit to the people of the state.

(2) The department shall:

(a) Collect information through investigation by its employees, on forest lands owned by the state, including:

(i) Condition of the lands;

(ii) Forest fire damage;

(iii) Illegal cutting, trespassing, or thefts; and

(iv) The number of acres and the value of the timber that is cut and removed each year, to determine which state lands are valuable chiefly for growing timber;

(b) Prepare maps of each timbered county showing state land therein; and

(c) Protect state land as much as is practical and feasible from fire, trespass, theft, and the illegal cutting of timber.

(3) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in:

(a) Forest surveys;

(b) Forest studies;

(c) Forest products studies; and

(d) Preparation of plans for the protection, management, and replacement of trees, wood lots, and timber tracts.

Sec. 51. Section 1, chapter 64, Laws of 1967 ex. sess. and RCW 43-.30.300 are each amended to read as follows:

The department of natural resources is authorized:

(1) To construct, operate, and maintain primitive outdoor recreation facilities on lands under its jurisdiction which are of primitive character when deemed necessary by the department to achieve maximum effective development of such lands and resources consistent with the purposes for which the lands are held. This authority shall be exercised only after review by the interagency committee for outdoor recreation and determination by the committee that the department is the most appropriate agency to undertake such construction, operation and maintenance. Such review is not required for ((authority exercised under the provisions of RCW 76.04.210)) campgrounds designated and prepared or approved by the department.

(2) To acquire right of way and develop public access to lands under the jurisdiction of the department of natural resources and suitable for public outdoor recreation.

(3) To receive and expend funds from federal and state outdoor recreation funding measures for the purposes of RCW 43.30.300 and 79.08.109.

Sec. 52. Section 25, chapter 47, Laws of 1971 ex. sess. and RCW 46-.09.200 are each amended to read as follows:

The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, state wildlife agents and deputy wildlife agents, state park rangers, state fisheries patrolmen, and those employees of the department of natural resources designated by the commissioner of public lands under RCW 43.30.310, ((~~76-.04.060, and 76.04.080~~)) section 4 of this 1986 act, and section 5 of this 1986 act.

Sec. 53. Section 3, chapter 126, Laws of 1974 ex. sess. and RCW 52-.18.030 are each amended to read as follows:

The resolution establishing service charges as specified in RCW 52.18-.010, shall specify, by legal geographical areas or other specific designation, the rate to apply to each property by location or other designation, and such other information as is deemed necessary to the proper computation of the service charge to be charged to each property owner subject to the resolution. The county assessor shall determine and identify the personal properties and improvements to real property which are subject to a service charge in each fire district and shall furnish and deliver to the county treasurer a listing of such properties with information describing the location, legal description, and address of the person to whom the statement of service charges is to be mailed, the name of the owner and the value of the property and improvements together with the service charge to apply to each. Service charges levied hereunder shall be certified to the county treasurer for collection in the same manner that is used for the collection of fire protection charges for forest lands protected by the department of natural resources as prescribed by ~~((the provisions of RCW 76.04.360))~~ section 35 of this 1986 act and the same penalties and provisions for collection shall apply.

Sec. 54. Section 5, chapter 161, Laws of 1961 as amended by section 51, chapter 230, Laws of 1984 and RCW 52.20.027 are each amended to read as follows:

RCW 52.20.010, 52.20.020, and 52.20.025 shall not apply to any tracts or parcels of wholly forest-type lands within the district which are required to pay forest fire protection assessments, as required by ~~((RCW 76.04.360))~~ section 35 of this 1986 act; however, both the tax levy or special assessments of the district and the forest ~~((patrol))~~ fire protection assessment shall apply to the forest land portion of any tract or parcel which is in the district containing a combination of both forest-type lands and nonforest-type lands or improvements: PROVIDED, That an owner has the right to have forest-type lands of more than twenty acres in extent separated from land bearing improvements and from nonforest-type lands for taxation and assessment purposes upon furnishing to the assessor a written request containing the proper legal description.

Sec. 55. Section 5, chapter 136, Laws of 1972 ex. sess. and RCW 70.94.760 are each amended to read as follows:

Nothing contained in RCW 70.94.740 through 70.94.765 is intended to alter or change the provisions of RCW 70.94.660, 70.94.710 through 70.94.730, and ~~((76.04.150 through 76.04.170))~~ section 17 of this 1986 act.

Sec. 56. Section 9, chapter 171, Laws of 1955 and RCW 76.14.120 are each amended to read as follows:

This chapter shall not relieve the landowner of providing adequate fire protection for forest land pursuant to ~~((RCW 76.04.360, as amended;))~~ section 35 of this 1986 act or, in lieu thereof, of paying the ~~((fire patrol))~~

forest fire protection assessment specified, but shall be deemed as providing solely for extra fire protection needed in the extrahazardous fire area.

Sec. 57. Section 13, chapter 294, Laws of 1971 ex. sess. as last amended by section 8, chapter 148, Laws of 1981 and RCW 84.33.130 are each amended to read as follows:

(1) An owner of land desiring that it be designated as forest land and valued pursuant to RCW 84.33.120 as of January 1 of any year commencing with 1972 shall make application to the county assessor before such January 1.

(2) The application shall be made upon forms prepared by the department of revenue and supplied by the county assessor, and shall include the following:

(a) A legal description of or assessor's tax lot numbers for all land the applicant desires to be designated as forest land;

(b) The date or dates of acquisition of such land;

(c) A brief description of the timber on such land, or if the timber has been harvested, the owner's plan for restocking;

(d) Whether there is a forest management plan for such land;

(e) If so, the nature and extent of implementation of such plan;

(f) Whether such land is used for grazing;

(g) Whether such land has been subdivided or a plat filed with respect thereto;

(h) Whether such land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder;

(i) Whether such land is subject to ~~((fire patrol))~~ forest fire protection assessments pursuant to ~~((RCW 76.04.360))~~ section 35 of this 1986 act;

(j) Whether such land is subject to a lease, option or other right which permits it to be used for any purpose other than growing and harvesting timber;

(k) A summary of the past experience and activity of the applicant in growing and harvesting timber;

(l) A summary of current and continuing activity of the applicant in growing and harvesting timber;

(m) A statement that the applicant is aware of the potential tax liability involved when such land ceases to be designated as forest land;

(n) An affirmation that the statements contained in the application are true and that the land described in the application is, by itself or with other forest land not included in the application, in contiguous ownership of twenty or more acres which is primarily devoted to and used for growing and harvesting timber.

The assessor shall afford the applicant an opportunity to be heard if the application so requests.

(3) The assessor shall act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:

(a) The land does not contain either a "merchantable stand of timber" or an "adequate stocking" as defined in RCW 76.08.010, or any laws or regulations adopted to replace such minimum standards, except this reason (a) shall not alone be sufficient for denial of the application (i) if such land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or such longer period necessitated by unavailability of seed or seedlings, or (ii) if only isolated areas within such land do not meet such minimum standards due to rock outcroppings, swamps, unproductive soil or other natural conditions;

(b) The applicant, with respect to such land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder;

(c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling such ordinary high tide line and two hundred feet horizontally landward therefrom, except that if the higher and better use determined by the assessor to exist for such land would not be permitted or economically feasible by virtue of any federal, state or local law or regulation such land shall be assessed and valued pursuant to the procedures set forth in RCW 84.33.110 and RCW 84.33.120 without being designated. The application shall be deemed to have been approved unless, prior to May 1, of the year after such application was mailed or delivered to the assessor, he shall notify the applicant in writing of the extent to which the application is denied.

(4) An owner who receives notice pursuant to subsection (3) of this section that his application has been denied may appeal such denial to the county board of equalization.

NEW SECTION. Sec. 58. Moneys in the landowner contingency forest fire suppression account under RCW 76.04.515 are transferred to the landowner contingency forest fire suppression account under section 37 of this act.

NEW SECTION. Sec. 59. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 58, Laws of 1951, section 1, chapter 207, Laws of 1971 ex. sess., section 2, chapter 102, Laws of 1977 ex. sess. and RCW 76.04.010;

(2) Section 2, chapter 125, Laws of 1911 and RCW 76.04.020;

(3) Section 4, chapter 102, Laws of 1921 and RCW 76.04.030;

(4) Section 4, chapter 125, Laws of 1911, section 88, chapter 75, Laws of 1977 and RCW 76.04.050;

(5) Section 5, chapter 125, Laws of 1911, section 1, chapter 102, Laws of 1921, section 2, chapter 184, Laws of 1923, section 1, chapter 97, Laws of 1937 and RCW 76.04.060;

(6) Section 6, chapter 125, Laws of 1911, section 1, chapter 68, Laws of 1933 and RCW 76.04.070;

(7) Section 7, chapter 125, Laws of 1911, section 1, chapter 33, Laws of 1917, section 3, chapter 184, Laws of 1923, section 2, chapter 43, Laws of 1925 ex. sess. and RCW 76.04.080;

(8) Section 20, chapter 125, Laws of 1911 and RCW 76.04.090;

(9) Section 7, chapter 105, Laws of 1917 and RCW 76.04.100;

(10) Section 19, chapter 125, Laws of 1911 and RCW 76.04.110;

(11) Section 11, chapter 184, Laws of 1923, section 2, chapter 8, Laws of 1979 ex. sess. and RCW 76.04.120;

(12) Section 21, chapter 125, Laws of 1911, section 32, chapter 199, Laws of 1969 ex. sess. and RCW 76.04.130;

(13) Section 1, chapter 43, Laws of 1925 ex. sess., section 1, chapter 24, Laws of 1953, section 4, chapter 111, Laws of 1957 and RCW 76.04-.140;

(14) Section 8, chapter 125, Laws of 1911, section 2, chapter 102, Laws of 1921, section 3, chapter 43, Laws of 1925 ex. sess., section 1, chapter 11, Laws of 1945, section 2, chapter 58, Laws of 1951, section 2, chapter 24, Laws of 1953, section 1, chapter 82, Laws of 1965, section 1, chapter 233, Laws of 1971 ex. sess. and RCW 76.04.150;

(15) Section 1, chapter 223, Laws of 1927, section 1, chapter 207, Laws of 1929, section 1, chapter 142, Laws of 1955, section 2, chapter 233, Laws of 1971 ex. sess. and RCW 76.04.170;

(16) Section 9, chapter 125, Laws of 1911, section 2, chapter 33, Laws of 1917, section 5, chapter 184, Laws of 1923, section 3, chapter 207, Laws of 1929, section 13, chapter 207, Laws of 1971 ex. sess. and RCW 76.04-.180;

(17) Section 3, chapter 152, Laws of 1937, section 1, chapter 18, Laws of 1951 2nd ex. sess., section 5, chapter 111, Laws of 1957 and RCW 76-.04.190;

(18) Section 10, chapter 125, Laws of 1911 and RCW 76.04.200;

(19) Section 11, chapter 125, Laws of 1911, section 3, chapter 102, Laws of 1921, section 4, chapter 43, Laws of 1925 ex. sess., section 2, chapter 142, Laws of 1955 and RCW 76.04.210;

(20) Section 271, chapter 249, Laws of 1909 and RCW 76.04.220;

(21) Section 1, chapter 13, Laws of 1951, section 1, chapter 8, Laws of 1979 ex. sess. and RCW 76.04.222;

(22) Section 13, chapter 125, Laws of 1911 and RCW 76.04.240;

(23) Section 3, chapter 134, Laws of 1971 ex. sess. and RCW 76.04-.242;

(24) Section 8, chapter 24, Laws of 1953 and RCW 76.04.245;

(25) Section 2, chapter 12, Laws of 1965 ex. sess., section 1, chapter 134, Laws of 1971 ex. sess., section 1, chapter 24, Laws of 1973 1st ex. sess. and RCW 76.04.251;

(26) Section 3, chapter 12, Laws of 1965 ex. sess. and RCW 76.04-.252;

(27) Section 12, chapter 142, Laws of 1955, section 2, chapter 151, Laws of 1959, section 10, chapter 12, Laws of 1965 ex. sess., section 2, chapter 24, Laws of 1973 1st ex. sess. and RCW 76.04.270;

(28) Section 2, chapter 134, Laws of 1971 ex. sess. and RCW 76.04-.273;

(29) Section 1, chapter 18, Laws of 1953 and RCW 76.04.275;

(30) Section 2, chapter 18, Laws of 1953 and RCW 76.04.277;

(31) Section 15, chapter 125, Laws of 1911 and RCW 76.04.280;

(32) Section 7, chapter 184, Laws of 1923 and RCW 76.04.290;

(33) Section 7, chapter 184, Laws of 1923, section 5, chapter 43, Laws of 1925 ex. sess., section 1, chapter 89, Laws of 1931, section 6, chapter 24, Laws of 1953, section 8, chapter 111, Laws of 1957 and RCW 76.04.300;

(34) Section 16, chapter 125, Laws of 1911, section 3, chapter 33, Laws of 1917, section 3, chapter 151, Laws of 1959, section 2, chapter 207, Laws of 1971 ex. sess. and RCW 76.04.310;

(35) Section 9, chapter 184, Laws of 1923 and RCW 76.04.340;

(36) Section 1, chapter 105, Laws of 1917, section 2, chapter 168, Laws of 1941, section 3, chapter 102, Laws of 1977 ex. sess. and RCW 76-.04.350;

(37) Section 1, chapter 102, Laws of 1977 ex. sess., section 1, chapter 171, Laws of 1981, section 1, chapter 55, Laws of 1982 1st ex. sess., section 1, chapter 299, Laws of 1983 and RCW 76.04.360;

(38) Section 4, chapter 105, Laws of 1917, section 2, chapter 64, Laws of 1921, section 1, chapter 134, Laws of 1929, section 1, chapter 58, Laws of 1939, section 1, chapter 235, Laws of 1951, section 3, chapter 207, Laws of 1971 ex. sess. and RCW 76.04.370;

(39) Section 3, chapter 105, Laws of 1917, section 2, chapter 152, Laws of 1937, section 1, chapter 99, Laws of 1945, section 9, chapter 58, Laws of 1951, section 4, chapter 207, Laws of 1971 ex. sess. and RCW 76-.04.380;

(40) Section 5, chapter 207, Laws of 1971 ex. sess., section 3, chapter 24, Laws of 1973 1st ex. sess. and RCW 76.04.385;

(41) Section 11, chapter 184, Laws of 1923, section 6, chapter 207, Laws of 1971 ex. sess., section 4, chapter 102, Laws of 1977 ex. sess. and RCW 76.04.390;

(42) Section 11, chapter 184, Laws of 1923 and RCW 76.04.395;

- (43) Section 5, chapter 105, Laws of 1917 and RCW 76.04.400;
- (44) Section 1, chapter 45, Laws of 1933, section 1, chapter 141, Laws of 1949 and RCW 76.04.410;
- (45) Section 2, chapter 45, Laws of 1933 and RCW 76.04.420;
- (46) Section 3, chapter 45, Laws of 1933 and RCW 76.04.430;
- (47) Section 4, chapter 45, Laws of 1933 and RCW 76.04.440;
- (48) Section 1, chapter 68, Laws of 1939 and RCW 76.04.490;
- (49) Section 2, chapter 68, Laws of 1939 and RCW 76.04.500;
- (50) Section 1, chapter 332, Laws of 1959, section 7, chapter 207, Laws of 1971 ex. sess., section 10, chapter 67, Laws of 1979 ex. sess. and RCW 76.04.510;
- (51) Section 8, chapter 207, Laws of 1971 ex. sess., section 4, chapter 24, Laws of 1973 1st ex. sess., section 11, chapter 67, Laws of 1979 ex. sess., section 1, chapter 28, Laws of 1981, section 2, chapter 55, Laws of 1982 1st ex. sess., section 2, chapter 299, Laws of 1983, section 74, chapter 57, Laws of 1985 and RCW 76.04.515; and
- (52) Section 9, chapter 207, Laws of 1971 ex. sess., section 2, chapter 49, Laws of 1979 and RCW 76.04.520.

NEW SECTION. Sec. 60. As used in this act subchapter and section captions constitute no part of the law.

NEW SECTION. Sec. 61. Sections 1 through 45 of this act are each added to chapter 76.04 RCW.

Passed the House February 13, 1986.
 Passed the Senate March 6, 1986.
 Approved by the Governor March 21, 1986.
 Filed in Office of Secretary of State March 21, 1986.

CHAPTER 101

[House Bill No. 1518]

IMPLIED CONSENT LAW—NOTICE REQUIREMENTS—RCW 46.20.092
REPEALED

AN ACT Relating to notice of the implied consent law; and repealing RCW 46.20.092.

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

NEW SECTION. Sec. 1. Section 4, chapter 1, Laws of 1969, section 145, chapter 158, Laws of 1979 and RCW 46.20.092 are each repealed.

Passed the House February 15, 1986.
 Passed the Senate March 5, 1986.
 Approved by the Governor March 21, 1986.
 Filed in Office of Secretary of State March 21, 1986.

CHAPTER 102

[House Bill No. 1962]

STATE BOARD OF REGISTRATION FOR ENGINEERS AND LAND SURVEYORS—REVISIONS

AN ACT Relating to engineers and land surveyors; amending RCW 18.43.030, 18.43-.035, 18.43.110, and 18.43.120; and repealing RCW 18.43.090.

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

Sec. 1. Section 3, chapter 283, Laws of 1947 as last amended by section 35, chapter 287, Laws of 1984 and RCW 18.43.030 are each amended to read as follows:

A state board of registration for professional engineers and land surveyors is hereby created which shall exercise all of the powers and perform all of the duties conferred upon it by this chapter. After July 9, 1986, the board shall consist of ((five registered professional engineers)) seven members, who shall be appointed by the governor and shall have the qualifications as hereinafter required. ((The members of the first board shall be appointed within thirty days after June 11, 1947, to serve for the following terms: One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. Every member of the board shall receive a certificate of his appointment from the governor and before beginning his term of office shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duty:)) The terms of board members in office on the effective date of this 1986 act shall not be affected. The first additional member shall be appointed for a four-year term and the second additional member shall be appointed for a three-year term. On the expiration of the term of any member, the governor shall ((in the manner hereinbefore provided)) appoint a successor for a term of five years ((a registered professional engineer having the qualifications as hereinafter required;)) to take the place of the member whose term on said board is about to expire. However, no member shall serve more than two consecutive terms on the board. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified.

Five members of the board shall be registered professional engineers licensed under the provisions of this chapter. Two members shall be registered professional land surveyors licensed under this chapter. Each of the members of the board shall have been actively engaged in the practice of engineering or land surveying for at least ten years subsequent to registration, five of which shall have been immediately prior to their appointment to the board.

Each member of the board shall be a citizen of the United States and shall have been a resident of this state for at least five years immediately preceding his appointment (~~(, and shall have been engaged in the practice of the profession of engineering for at least twelve years, and shall have been in responsible charge of important engineering work for at least five years. Responsible charge of engineering teaching may be construed as responsible charge of important engineering work).~~).

Each member of the board shall be compensated in accordance with RCW 43.03.240 and, in addition thereto, shall be reimbursed for travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060.

The governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as hereinabove provided.

Sec. 2. Section 1, chapter 297, Laws of 1959 as last amended by section 10, chapter 75, Laws of 1977 and RCW 18.43.035 are each amended to read as follows:

The board may adopt and amend bylaws establishing its organization and method of operation, including but not limited to meetings, maintenance of books and records, publication of reports, code of ethics, and rosters, and adoption and use of a seal. ~~((Three))~~ Four members of the board shall constitute a quorum for the conduct of any business of the board. The board may employ such persons as are necessary to carry out its duties under this chapter. It may adopt rules and regulations reasonably necessary to administer the provisions of this chapter. It may conduct investigations concerning alleged violations of the provisions of this chapter. In making such investigations and in all proceedings under RCW 18.43.110, the chairman of the board or any member of the board acting in his place may administer oaths or affirmations to witnesses appearing before the board, subpoena witnesses and compel their attendance, and require the production of books, records, papers and documents. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, records, papers or documents so required to be produced, the board may present its petition to the superior court of the county in which such person resides, setting forth the facts, and thereupon the court shall, in any proper case, enter a suitable order compelling compliance with the provisions of this chapter and imposing such other terms and conditions as the court may deem equitable. The board shall submit to the governor such periodic reports as may be required. A roster, showing the names and places of business of all registered professional engineers and land surveyors may be published for distribution, upon request, to professional engineers and land surveyors registered under this chapter and to the public.

Sec. 3. Section 14, chapter 283, Laws of 1947 as last amended by section 45, chapter 7, Laws of 1985 and RCW 18.43.110 are each amended to read as follows:

The board shall have the exclusive power to fine and reprimand the registrant and suspend or revoke the certificate of registration of any registrant who is found guilty of:

The practice of any fraud or deceit in obtaining a certificate of registration; or

Any gross negligence, incompetency, or misconduct in the practice of engineering or land surveying as a registered engineer or land surveyor.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing and shall be sworn to by the person making them and shall be filed with the secretary of the board.

~~((All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they have been preferred.))~~ All procedures related to hearings on such charges shall be in accordance with rules for a contested case, chapter 34.04 RCW, the Administrative Procedure Act.

If, after such hearing, a majority of the board vote in favor of finding the accused guilty, the board shall revoke or suspend the certificate of registration of such registered professional engineer or land surveyor.

The board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked or suspended, providing a majority of the board vote in favor of such issuance. A new certificate of registration to replace any certificate revoked, lost, destroyed, or mutilated may be issued, subject to the rules of the board, and a charge determined by the director as provided in RCW 43.24.086 shall be made for such issuance.

Any person who shall feel aggrieved by any action of the board in denying or revoking his certificate of registration may appeal therefrom to the superior court of the county in which such person resides, and after full hearing, said court shall make such decree sustaining or revoking the action of the board as it may deem just and proper.

Fines imposed by the board shall not exceed one thousand dollars for each offense.

In addition to the imposition of civil penalties under this section, the board may refer violations of this chapter to the appropriate prosecuting attorney for charges under RCW 18.43.120.

Sec. 4. Section 15, chapter 283, Laws of 1947 and RCW 18.43.120 are each amended to read as follows:

Any person who shall practice, or offer to practice, engineering or land surveying in this state without being registered in accordance with the provisions of the chapter, or any person presenting or attempting to use as his

own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant, or any person who shall attempt to use the expired or revoked certificate of registration, or any person who shall violate any of the provisions of this chapter shall be guilty of a gross misdemeanor.

It shall be the duty of all officers of the state or any political subdivision thereof, to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the board, and render such legal assistance as may be necessary in carrying out the provisions of this chapter.

NEW SECTION. Sec. 5. Section 12, chapter 283, Laws of 1947 and RCW 18.43.090 are each repealed.

Passed the House March 8, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 103

[Engrossed House Bill No. 2055]

GENERAL OBLIGATION BONDS—COMMUNITY ECONOMIC REVITALIZATION BOARD—GRANTS AND LOANS TO LOCAL GOVERNMENTS AND SUBDIVISIONS OF THE STATE

AN ACT Relating to bonded indebtedness; and amending RCW 43.99G.020.

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

Sec. 1. Section 2, chapter 4, Laws of 1985 ex. sess. 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, ((department of trade and economic development;)) 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 (~~by the department of trade and economic development~~) 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 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 game, 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) General obligation bonds of the state of Washington in the sum of three 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 (~~(project{s})~~) 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) General obligation bonds of the state of Washington in the sum of fifty-nine 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 ~~((by the office of the state treasurer))~~ as provided in the capital budget acts, subject to legislative appropriation.

(7) General obligation bonds of the state of Washington in the sum of twenty-three 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) General obligation bonds of the state of Washington in the sum of thirty-three 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) General obligation bonds of the state of Washington in the sum of eighty 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.

Passed the House February 17, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 104

[House Bill No. 1954]

PUBLIC STADIUMS—SPECIAL EXCISE TAX

AN ACT Relating to the use of the local tax on lodging for capital improvements for which the debt has been incurred prior to January 1, 1986; amending RCW 67.28.180; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 11, chapter 236, Laws of 1967 as last amended by section 1, chapter 272, Laws of 1985 and RCW 67.28.180 are each amended to read as follows:

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property: PROVIDED, That it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or to enjoy the same.

(2) Any levy authorized by this section shall be subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this chapter shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this chapter upon the same taxable event((:)).

(b) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county shall be exempt from the provisions of subsection (a), so long as, and to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued pursuant to the provisions of RCW 67.28.150 through 67.28.160: PROVIDED, That so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, ((maintaining, operating,)) and equipping stadium capital improvement projects ((to)), and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred.

As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto((, and to pay for any engineering, planning, financial, legal and professional services incident to the development and operation of such stadium capital improvement projects)). The stadium restaurant authorized by this subsection (2)(b) shall be operated by a private concessionaire under a contract with the county((:)).

(c) No city within a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt: PROVIDED, That in the event that any city in such county has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as and to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued pursuant to the provisions of RCW 67.28.150 through 67.28.160.

(3) Any levy authorized by this section by a county that has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160 shall be subject to the following:

(a) Taxes collected under this section in any calendar year in excess of five million three hundred thousand dollars shall only be used for art and cultural museums.

(b) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.

(c) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.

(d) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired.

(e) The county shall not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(e) does not apply to contracts in existence on the effective date of this 1986 section.

If a court of competent jurisdiction declares any provision of this subsection (3) invalid, then that invalid provision shall be null and void and the remainder of this section is not affected.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect April 1, 1986.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 105

[House Bill No. 1708]

LIQUOR CONTROL BOARD—MEMBERS' TERMS

AN ACT Relating to the liquor control board; and amending RCW 66.08.014.

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

Sec. 1. Section 64, chapter 62, Laws of 1933 ex. sess. as last amended by section 9, chapter 5, Laws of 1949 and RCW 66.08.014 are each amended to read as follows:

(1) The members of the board to be appointed after December 2, 1948 shall be appointed for terms beginning January 15, 1949, and expiring as follows: One member of the board for a term of three years from January 15, 1949; one member of the board for a term of six years from January 15, 1949; and one member of the board for a term of nine years from January 15, 1949. Each of the members of the board appointed hereunder shall hold office until his successor is appointed and qualified. After the effective date of this 1986 act, the term that began on January 15, 1985, will end on January 15, 1989, the term beginning on January 15, 1988, will end on January 15, 1993, and the term beginning on January 15, 1991, will end on January 15, 1997. Thereafter, upon the expiration of the term of any ~~((of the three members of the board appointed as aforesaid))~~ member appointed after the effective date of this 1986 act, each succeeding member of the board shall be appointed and hold office for the term of ~~((nine))~~ six years. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs. No vacancy in the membership of the board shall impair the right of the remaining member or members to act, except as herein otherwise provided.

(2) The principal office of the board shall be at the state capitol, and it may establish such other offices as it may deem necessary.

(3) Any member of the board may be removed for inefficiency, malfeasance or misfeasance in office, upon specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal shall disqualify such member for reappointment.

(4) Each member of the board shall devote his entire time to the duties of his office and no member of the board shall hold any other public office. Before entering upon the duties of his office, each of said members of the

board shall enter into a surety bond executed by a surety company authorized to do business in this state, payable to the state of Washington, to be approved by the governor in the penal sum of fifty thousand dollars conditioned upon the faithful performance of his duties, and shall take and subscribe to the oath of office prescribed for elective state officers, which oath and bond shall be filed with the secretary of state. The premium for said bond shall be paid by the board.

Passed the House March 11, 1986.

Passed the Senate March 10, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 106

[Engrossed Substitute House Bill No. 1802]

MARGINAL LABOR FORCE ATTACHMENT

AN ACT Relating to marginal labor force attachment; amending RCW 50.20.015; creating new sections; repealing RCW 50.20.016 and 50.20.017; and declaring an emergency.

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

Sec. 1. Section 9, chapter 205, Laws of 1984 as amended by section 3, chapter 285, Laws of 1985 and RCW 50.20.015 are each amended to read as follows:

~~((+))~~ If the product of an otherwise eligible individual's weekly benefit amount multiplied by thirteen is greater than the total amount of wages earned in covered employment in the higher of two corresponding calendar quarters included within the individual's determination period, that individual shall be considered to have marginal labor force attachment. ~~((However, the individual shall not be considered to have marginal labor force attachment if he or she had no wages or reduced wages in either of such two corresponding calendar quarters because of illness or disability sufficient to have resulted in a finding of marginal attachment, or because such individual's first wages in covered employment were earned after the fifth completed calendar quarter of the individual's determination period:))~~ For the purposes of this subsection and RCW 50.29.020, "determination period" means the first eight of the last nine completed calendar quarters immediately preceding the individual's current benefit year.

~~((2))~~ With respect to new claims for benefits filed on or after July 1, 1985, in addition to any other requirements established under this chapter which are not inconsistent with (a) through (f) of this subsection, if a determination is made under subsection (1) of this section that an individual has marginal labor force attachment, the following provisions shall apply to benefits payable to such individuals under this chapter:

~~(a) Payment of benefits under this chapter shall not be made to any individual for any week of unemployment:~~

~~(i) During which he or she fails to accept any offer of suitable work, as defined in subsection (2)(c) of this section, or fails to apply for any suitable work to which he or she was referred by the department; or~~

~~(ii) During which he or she fails to actively engage in seeking work:~~

~~(b) If any individual is ineligible for benefits for any week by reason of a failure described in subsection (2)(a)(i) of this section, the individual shall be ineligible to receive benefits for any week which begins during a period which:~~

~~(i) Begins with the week following the week in which such failure occurs; and~~

~~(ii) Does not end until such individual has obtained bona fide work and earned wages of not less than his or her suspended weekly benefit amount in each of five calendar weeks:~~

~~(c) For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities and which does not involve conditions described in RCW 50.20.110.~~

~~(d) Benefits shall not be denied under subsection (2)(a)(i) of this section to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if:~~

~~(i) The gross average weekly remuneration payable to such individual for the position does not exceed the sum of:~~

~~(A) The individual's weekly benefit amount, as determined under RCW 50.20.120, for his or her benefit year; plus~~

~~(B) The amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable to such individual for such week;~~

~~(ii) The position was not offered to such individual in writing and was not listed with the department;~~

~~(iii) Such failure would not result in a denial of benefits under the provisions of RCW 50.20.080 and 50.20.100 to the extent such provisions are not inconsistent with the provisions of subsections (2)(c) and (2)(e) of this section; or~~

~~(iv) The position pays wages less than the higher of:~~

~~(A) The minimum wage provided by section (6)(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or~~

~~(B) Any applicable state or local minimum wage:~~

~~(e) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:~~

~~(i) The individual has engaged in a systematic and sustained effort to obtain work during such week, which has included at least five employer contacts: PROVIDED, That if the department determines that economic~~

~~conditions within a designated labor market area make it unlikely that individuals will be able to fulfill the requirement of five employer contacts per week, then the department shall designate an appropriate number of required contacts for individuals within such labor market area. PROVIDED FURTHER, That if the department makes such a determination, then it shall report the determination, the newly established number of employer contacts required within the designated labor market area, and supporting documentation for these actions, to the governor and the respective chairpersons of the house committee on labor and the senate committee on commerce and labor;~~

~~(ii) The individual provides tangible evidence to the department that he or she has engaged in such an effort during such week. Such evidence shall include information supplied by the individual on forms developed by the department which also provide for employer signature to verify work search contacts and comments regarding the individual's preparedness for immediate work.~~

~~(f) The department shall refer applicants to any suitable work to which subsections (2)(d)(i) through (2)(d)(iv) of this section would not apply. To the extent possible, the department shall provide each applicant with five referrals each week. A referral shall serve as one of the employer contacts required in subsection (2)(c)(i) of this section.~~

~~(3) This section shall not apply to an individual who earned wages in covered employment in at least eighty hours in each calendar quarter of the individual's base period, nor shall it apply to an individual who during the first half of the determination period performed work and earned wages for services not considered to be covered employment in Washington.))~~

NEW SECTION. Sec. 2. A joint select committee on unemployment insurance and compensation is established to study the impact on unemployment compensation claimants of long-term structural unemployment, seasonal and cyclical unemployment and chronic and repetitive unemployment.

The committee shall consist of twenty-two voting members appointed as follows:

(1) Two members from each caucus of the senate, selected by the president of the senate; at least one member of each caucus shall be a member of the senate commerce and labor committee;

(2) Two members from each caucus of the house of representatives, selected by the speaker of the house of representatives; at least one member of each caucus shall be a member of the house commerce and labor committee;

(3) Fourteen members appointed jointly by the president of the senate and the speaker of the house of representatives representing the following:

(a) The building, utility, and heavy-industrial contractors in the construction industry;

- (b) Construction industry organized labor;
- (c) A general business association in Washington state;
- (d) An organization broadly representing organized labor;
- (e) The retail trade industry;
- (f) Retail trade industry organized labor;
- (g) The timber industry, whose representative shall have expertise in management of employee benefits;
- (h) Timber industry organized labor;
- (i) The wholesale distribution industry including loading and trucking;
- (j) The employees of the wholesale distribution industry including loading and trucking;
- (k) The food processing–agricultural industry;
- (l) Employees in the food processing–agricultural industry;
- (m) The agricultural industry; and
- (n) The employees of the agricultural industry.

One nonvoting member shall be selected by the appointed members to serve as chair. The chair shall not represent business, employers or organized labor, nor be a member of the legislature or a state agency employee.

Members of the joint select committee shall be entitled to the allowances specified in RCW 43.03.060 while on official business of the committee. Members of the senate and house of representatives shall be entitled to the allowance specified by RCW 44.04.120 while on committee business.

NEW SECTION. Sec. 3. The purposes of the joint select committee on unemployment insurance and compensation are:

(1) To study and analyze the causes and factors related to claimants who have become long–term structurally unemployed, and to research all possible alternatives to return the long–term unemployed to the work force or to a meaningful, productive endeavor;

(2) To study and analyze the industries and work force of those industries that can be termed seasonal and/or cyclical in nature, to research factors related to such industries and work force, and to seek alternatives to minimize seasonal or cyclical employment on both seasonal and cyclical employers and workers;

(3) To study and analyze causes and factors related to the chronic unemployed, and to analyze and research alternatives to lessen and minimize chronic unemployment; and

(4) To analyze and review all information, data and reports related to the purposes of this section and to submit findings and recommendations to the governor and legislature by the commencement of the 1987 regular session of the legislature.

NEW SECTION. Sec. 4. The employment security department shall provide any information and assistance that may be reasonably requested by the committee chair to enable the committee to carry out the purposes of

sections 2 and 3 of this act. The department shall prepare for the committee's review at its first meeting a demonstration project for identifying seasonal employees and referring these employees for employment. Results of the demonstration project shall be reported to the committee for its use in carrying out the committee's purposes. The committee will use legislative staff and facilities, but may hire additional staff with technical expertise if such expertise is deemed necessary to carry out the committee's purposes. All expenses of the committee shall be paid jointly by the senate and house of representatives.

NEW SECTION. Sec. 5. The joint select committee on unemployment compensation and insurance shall cease to exist on May 1, 1987, unless the legislature determines it necessary to extend the committee to continue required analysis and legislative oversight for proper implementation.

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

- (1) Section 1, chapter 285, Laws of 1985 and RCW 50.20.016; and
- (2) Section 2, chapter 285, Laws of 1985 and RCW 50.20.017.

NEW SECTION. Sec. 7. 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. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 15, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 107

[Engrossed Substitute House Bill No. 1270]

TAXING DISTRICTS—CONTRACTS BETWEEN DISTRICTS—TRANSFER OF FUNDS—LEVY SETTING—STUDY FINANCING OF JUNIOR DISTRICTS

AN ACT Relating to local government; adding a new section to chapter 84.55 RCW; adding a new chapter to Title 39 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. Any agreement or contract between two taxing districts other than the state which is otherwise authorized by law may be made contingent upon a particular property tax levy rate of an identified taxing district other than the state where such rate affects the regular property tax rate of one of the parties to the contract and therefore affects the party's resources with which to perform under the contract.

This section shall expire December 31, 1988.

NEW SECTION. Sec. 2. Any taxing district other than the state may transfer funds to another taxing district other than the state where the regular property tax levy rate of the second district may affect the regular property tax levy rate of the first district and where such transfer is part of an agreement whereby proration or reduction of property taxes is lessened or avoided.

This section shall expire December 31, 1988.

NEW SECTION. Sec. 3. A new section is added to chapter 84.55 RCW to read as follows:

The regular property tax levies for each taxing district other than the state for taxes due in 1987 through 1991 may be set at the amount which would otherwise be allowed under this chapter if the regular property tax levy for the district for taxes due in 1986 and 1987 had been set at the full amount allowed under this chapter.

This section shall expire December 31, 1991.

NEW SECTION. Sec. 4. The local governance study commission created in RCW 43.63A.252 shall undertake a study of the financing of those junior taxing districts subject to the prorating of property taxes pursuant to RCW 84.52.010. The study shall examine the extent to which those districts are dependent either directly or indirectly on property tax revenues, the impact of prorating of property taxes on the ability of those districts to maintain acceptable levels of services, and the need for a diversified resource base for such districts in anticipation of lessened or negative growth in property values. If the study reveals the existing funding mechanism to be inadequate to meet the long-term financing needs of the services provided by those districts, then alternative proposals shall be recommended to the

legislature concerning the provision and financing of those services, and those junior taxing districts are put on notice that, due to extreme limitations in the availability of regular property taxing authority for junior taxing districts, these recommendations may involve significant changes from the status quo. The commission shall report its findings by December 1, 1987.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. Sections 1 and 2 of this act are supplementary and in addition to any other authority granted by law and shall not be construed to limit any other law.

NEW SECTION. Sec. 7. Sections 1 and 2 of this act shall constitute a new chapter in Title 39 RCW.

Passed the House March 8, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 108

[Engrossed House Bill No. 1483]
SPECIAL LICENSE PLATES

AN ACT Relating to special license plates; amending RCW 46.16.570; and repealing RCW 46.16.370.

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

Sec. 1. Section 4, chapter 200, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 24, Laws of 1983 1st ex. sess. and RCW 46.16.570 are each amended to read as follows:

The personalized license plates shall be the same design as regular license plates, and shall consist of numbers or letters, or any combination thereof not exceeding seven positions unless proposed by the department and approved by the Washington state patrol and not less than (~~two positions~~) one position, to the extent that there are no conflicts with existing passenger, commercial, trailer, motorcycle, or special license plates series or with the provisions of RCW 46.16.230 or 46.16.235: PROVIDED, That the maximum number of positions on personalized license plates for motorcycles shall be designated by the department.

NEW SECTION. Sec. 2. Section 1, chapter 201, Laws of 1961, section 25, chapter 32, Laws of 1967, section 3, chapter 27, Laws of 1983 and RCW 46.16.370 are each hereby repealed.

Passed the House February 15, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 109

[Substitute House Bill No. 1408]

WATER DISTRICTS—WITHDRAWAL OF TERRITORY

AN ACT Relating to withdrawal of territory from a water district; and amending RCW 57.28.050.

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

Sec. 1. Section 5, chapter 55, Laws of 1941 and RCW 57.28.050 are each amended to read as follows:

The petition for withdrawal shall be heard at the time and place specified in such notice or the hearing may be adjourned from time to time, not exceeding one month in all, and any person may appear at such hearing and make objections to the withdrawal of such territory or to the proposed boundary lines thereof. Upon final hearing on the petition for withdrawal, the commissioners of the water district shall make such changes in the proposed boundary lines as they deem to be proper, except that no changes in the boundary lines shall be made by the commissioners to include lands not within the boundaries of the territory as described in such petition. In establishing and defining such boundaries the commissioners shall exclude any property which is then being furnished with water by ~~((said))~~ the water district or which is included in any distribution system the construction of which has been duly authorized or which is included within any duly established local improvement district or utility local improvement district, and the territory as finally established and defined must be substantial in area and consist of adjoining or contiguous properties. The ~~((said))~~ commissioners shall thereupon make and by resolution adopt findings of fact as to the following questions:

(1) ~~((Is the territory as so established and defined of such location or character that water cannot be furnished to it by such water district at reasonable cost?))~~

(2)) Would the withdrawal of such territory be of benefit to such territory?

~~((3))~~ (2) Would such withdrawal be conducive to the general welfare of the balance of the district?

~~((4) Does it appear that such territory was improvidently included within such water district at the time of the establishment thereof or annexation thereto?))~~

Such findings shall be entered in the records of the water district, together with any recommendations the ((said)) commissioners may by resolution adopt.

Passed the House February 10, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 110

[Engrossed Senate Bill No. 4645]

UNEMPLOYMENT INSURANCE COVERAGE—CORPORATE OFFICERS

AN ACT Relating to unemployment insurance coverage of corporate officers; amending RCW 50.04.165; creating a new section; and providing an effective date.

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

Sec. 1. Section 13, chapter 35, Laws of 1981 as amended by section 4, chapter 23, Laws of 1983 1st ex. sess. and RCW 50.04.165 are each amended to read as follows:

Services performed (~~after October 1, 1983, in the capacity of~~) by corporate officers as defined in RCW 23A.08.470, other than those covered by chapter 50.44 RCW, shall not be considered services in employment. However, a corporation may elect to cover not less than all of its corporate officers under RCW 50.24.160. If an employer does not elect to cover its corporate officers under RCW 50.24.160, the employer must notify its corporate officers in writing that they are ineligible for unemployment benefits. If the employer fails to notify any corporate officer, then that person shall not be considered to be a corporate officer for the purposes of this section.

NEW SECTION. Sec. 2. 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. 3. 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. 4. This act shall take effect July 1, 1986.

Passed the Senate February 14, 1986.

Passed the House March 4, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 111

[Senate Bill No. 4647]

UNEMPLOYMENT INSURANCE—EMPLOYERS QUALIFIED FOR EXPERIENCE RATING

AN ACT Relating to employers qualified for experience rating under unemployment insurance law; amending RCW 50.29.010 and 50.29.022; and creating a new section.

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

Sec. 1. Section 10, chapter 2, Laws of 1970 ex. sess. as last amended by section 3, chapter 205, Laws of 1984 and RCW 50.29.010 are each amended to read as follows:

As used in this chapter:

"Computation date" means July 1st of any year;

"Cut-off date" means September 30th next following the computation date;

"Qualification date" means April 1st of the third year preceding the computation date.

"Rate year" means the calendar year immediately following the computation date;

~~("Experience rating year" is the twelve-month period beginning with July 1st of one calendar year and ending on June 30th of the following calendar year;)~~

"Payroll" means all wages (as defined for contribution purposes) paid by an employer to individuals in his employment;

~~("Acquire" means the right to occupy or use the operating assets formerly in the possession of a predecessor employer whether that acquisition be by purchase, lease, gift, or by any legal process;~~

~~"Qualified employer" means: (1) Any employer as of the computation date who had some employment in the twelve-month period immediately preceding April 1st of the first of the three consecutive calendar years immediately preceding the computation date and who had no period of four or more consecutive calendar quarters in such three years for which he reported no employment, except that no employer shall be deemed a qualified employer unless all contributions, interest, and penalties required under this title from that employer for the thirty-six month period immediately preceding the computation date have been paid by the cut-off date; or (2) Any employer as of the computation date who has not been subject to this title for a period of time sufficient to be classified as a qualified employer under~~

~~the provision of subdivision (1) of this paragraph but who had some employment in the twelve-month period immediately preceding April 1st of the first of the two consecutive calendar years immediately preceding the computation date and who had no period of four or more consecutive calendar quarters in such two years for which he reported no employment, except that no employer shall be deemed a qualified employer unless all contributions, interest, and penalties required under this title from that employer for the twenty-four month period immediately preceding the computation date have been paid by the cut-off date: PROVIDED, That for the purpose of this section, unpaid contributions, interest, or penalties of twenty-five dollars or less or unpaid contributions, interest, or penalties of one-half of one percent of the employer's total tax reported for the twelve-month period immediately preceding the computation date may be disregarded if showing is made to the satisfaction of the commissioner that an otherwise qualified employer acted in good faith and that forfeiture of qualification for a reduced contribution rate because of such delinquency would be inequitable:)~~

"Qualified employer" means any employer who (1) reported some employment in the twelve-month period beginning with the qualification date, (2) had no period of four or more consecutive calendar quarters for which he or she reported no employment in the two calendar years immediately preceding the computation date, and (3) has submitted by the cut-off date all reports, contributions, interest, and penalties required under this title for the period preceding the computation date. Unpaid contributions, interest, and penalties may be disregarded for the purposes of this section if they constitute less than either twenty-five dollars or one-half of one percent of the employer's total tax reported for the twelve-month period immediately preceding the computation date. Late reports, contributions, penalties, or interest from employment defined under RCW 50.04.160 may be disregarded for the purposes of this section if showing is made to the satisfaction of the commissioner that an otherwise qualified employer acted in good faith and that forfeiture of qualification for a reduced contribution rate because of such delinquency would be inequitable.

NEW SECTION. Sec. 2. 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.

Sec. 3. Section 1, chapter 270, Laws of 1985 and RCW 50.29.022 are each amended to read as follows:

(1) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1985, the department shall calculate a percentage rate of savings for benefit charges for the fiscal year ending June 30, 1985 and apply the rate as though RCW 50.29.020(2)(g) had been in effect for fiscal years 1984, 1983, 1982, and 1981. For fiscal years ending June 30, 1986, and beyond, benefit charges will be calculated pursuant to RCW 50.29.020(2)(g).

(2) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1986, the department shall calculate the percentage rate of savings for benefit charges for the fiscal year ending 1985, and apply the rate to fiscal years 1984, 1983, and 1982.

(3) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1987, the department shall calculate the average percentage rate of savings for benefit charges for fiscal years 1986 and 1985, and apply the rate to fiscal years 1984 and 1983.

(4) For the purpose of establishing an employer's rate of contribution for the tax year beginning January 1, 1988, the department shall calculate the average percentage rate of savings for benefit charges for fiscal years 1987, 1986, and 1985, and apply the rate to fiscal year 1984.

(5) If any part of this section 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 section 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 section. The rules under this section 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. 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 Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 112

[Substitute House Bill No. 1401]

ECONOMIC FORECASTS—GOVERNOR'S BUDGET OR BUDGET DOCUMENT

AN ACT Relating to economic forecasts; and amending RCW 43.88.030 and 82.01.120.

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

Sec. 1. Section 43.88.030, chapter 8, Laws of 1965 as last amended by section 7, chapter 138, Laws of 1984 and RCW 43.88.030 are each amended to read as follows:

(1) 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(~~(: PROVIDED, That)~~). 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) Cash surplus or deficit, by fund, to the extent provided by RCW 43.88.040 and 43.88.050;

(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 anticipated revenues 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.

(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.

Sec. 2. Section 1, chapter 138, Laws of 1984 and RCW 82.01.120 are each amended to read as follows:

(1) The director shall employ an economic and revenue forecast supervisor to supervise the preparation of all economic and revenue forecasts. As used in this section and RCW 82.01.125 and 82.01.130, "supervisor" means the economic and revenue forecast supervisor. Approval by an affirmative vote of at least five members of the economic and revenue forecast council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years, unless the supervisor is reappointed by the director and approved by the economic and revenue forecast council for another three years. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(2) Four times each year the supervisor shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.01.130(2):

- (a) An official state economic and revenue forecast;
- (b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and
- (c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(3) The supervisor shall submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.01.130(3), to the governor and the legislature on or before (~~December~~) November 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June 20th, and September 20th.

Passed the House February 15, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 113

[House Bill No. 1450]

MOTOR VEHICLE EQUIPMENT STANDARDS—COMMISSION ON EQUIPMENT

AN ACT Relating to motor vehicle equipment standards; amending RCW 46.37.310, 46.37.380, 46.37.420, 46.37.430, 46.37.440, 46.37.510, 46.37.530, and 46.37.535; and reenacting and amending RCW 46.37.320.

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

Sec. 1. Section 46.37.310, chapter 12, Laws of 1961 and RCW 46.37.310 are each amended to read as follows:

(1) (~~On and after January 1, 1938;~~) No person (~~shall~~) may have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any head lamp, auxiliary(;) or fog lamp, rear lamp, signal lamp, or reflector, which reflector is required (~~hereunder~~) under this chapter, or parts of any of the foregoing which tend to change the original design or performance, unless

of a type which has been submitted to the state commission on equipment and ~~((approved))~~ conforming to rules adopted by it.

(2) No person ~~((shall))~~ may have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer any lamp or device mentioned in this section ~~((which has been approved))~~ conforming to rules adopted by the state commission on equipment unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(3) No person ~~((shall))~~ may use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless ~~((said))~~ the lamps are mounted, adjusted, and aimed in accordance with instructions of the state commission on equipment.

Sec. 2. Section 46.37.320, chapter 12, Laws of 1961 as amended by section 1, chapter 20, Laws of 1977 ex. sess. and by section 25, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.320 are each reenacted and amended to read as follows:

(1) The state commission on equipment is hereby authorized to ~~((approve or disapprove any lighting devices and to issue))~~ adopt and enforce ~~((regulations))~~ rules establishing standards and specifications ~~((for the approval of such))~~ governing the performance of lighting devices~~((;))~~ and their installation, adjustment, and aiming, when in use on motor vehicles, and other safety equipment, components, or assemblies of a type for which regulation is required in this chapter or in rules adopted by the commission. Such ~~((regulations))~~ rules shall correlate with and, so far as practicable, conform to federal motor vehicle safety standards adopted pursuant to the national traffic and motor vehicle safety act of 1966 (15 U.S.C. sec. 1381 et seq.) covering the same aspect of performance, or in the absence of such federal standards, to the then current standards and specifications of the society of automotive engineers applicable to such equipment ~~((and to the headlamp standards established by the United Nations agreement concerning the adoption of approval and reciprocal recognition of approval for motor vehicle equipment and parts done at Geneva on March 20, 1958, as amended and adopted by the Canadian standards association (CSA standard D106.2)))~~: PROVIDED, That the sale, installation, and use of any headlamp meeting the standards of either the society of automotive engineers or the United Nations agreement concerning motor vehicle equipment and parts done at Geneva on March 20, 1958, or as amended and adopted by the Canadian standards association (CSA standard D106.2), as amended, shall be lawful in this state.

(2) ~~((The state commission on equipment shall establish the procedure to be followed when request for approval of any lighting device or other safety equipment, component, or assembly is submitted under this chapter or in regulations issued by the state commission on equipment. The procedure may provide for submission of such device, component, or assembly to~~

~~any recognized organization or agency such as, but not limited to, the vehicle equipment safety commission, American national standards institute, society of automotive engineers, and the American association of motor vehicle administrators, as the agent of the state commission on equipment and for the issuance of an approval certificate by that recognized organization or agency in lieu of submission of the device, component, or assembly to the state commission on equipment.~~

(3) The state commission on equipment shall maintain and publish lists of all lamps, lighting devices, components, assemblies, or other safety equipment by name and type which have been approved by it.) Every manufacturer who sells or offers for sale lighting devices or other safety equipment subject to requirements established by the commission shall, if the lighting device or safety equipment is not in conformance with applicable federal motor vehicle safety standards, provide for submission of such lighting device or safety equipment to any recognized organization or agency such as, but not limited to, the American national standards institute, the society of automotive engineers, or the American association of motor vehicle administrators, as the agent of the commission. Issuance of a certificate of compliance for any lighting device or item of safety equipment by that agent is deemed to comply with the standards set forth by the commission on equipment. Such certificate shall be issued by the agent of the state before sale of the product within the state.

(3) The commission may at any time request from the manufacturer a copy of the test data showing proof of compliance of any device with the requirements established by the commission and additional evidence that due care was exercised in maintaining compliance during production. If the manufacturer fails to provide such proof of compliance within sixty days of notice from the commission, the commission may prohibit the sale of the device in this state until acceptable proof of compliance is received by the commission.

(4) The commission or its agent may purchase any lighting device or other safety equipment, component, or assembly subject to this chapter or rules adopted by the commission under this chapter, for purposes of testing or retesting the equipment as to its compliance with applicable standards or specifications.

Sec. 3. Section 46.37.380, chapter 12, Laws of 1961 as amended by section 32, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.380 are each amended to read as follows:

(1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device (~~shall~~) may emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle

shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle ~~((shall))~~ may be equipped with nor ~~((shall))~~ may any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(3) It is permissible for any vehicle to be equipped with a theft alarm signal device so long as it is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal device may use a whistle, bell, horn, or other audible signal but shall not use a siren.

(4) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell(;) capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type ~~((approved))~~ conforming to rules adopted by the state commission on equipment, but ~~((such))~~ the siren shall not be used except when ~~((such))~~ the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which ~~((said))~~ latter events the driver of ~~((such))~~ the vehicle shall sound ~~((said))~~ the siren when reasonably necessary to warn pedestrians and other drivers of ~~((the))~~ its approach ~~((thereof))~~.

Sec. 4. Section 46.37.420, chapter 12, Laws of 1961 as last amended by section 50, chapter 7, Laws of 1984 and RCW 46.37.420 are each amended to read as follows:

(1) It is unlawful to operate a vehicle upon the public highways of this state unless it is completely equipped with pneumatic rubber tires.

(2) No tire on a vehicle moved on a highway may have on its periphery any block, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances that will not injure the highway, and except also that it is permissible to use tire chains or metal studs imbedded within the tire of reasonable proportions and of a type ~~((approved))~~ conforming to rules adopted by the state commission on equipment, upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid. It is unlawful to use metal studs imbedded within the tire between April 1st and November 1st. The state department of transportation may, from time to time, determine additional periods in which the use of tires with metal studs imbedded therein is lawful.

(3) The state department of transportation and local authorities in their respective jurisdictions may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this section.

(4) Tires with metal studs imbedded therein may be used between November 1st and April 1st upon school buses and fire department vehicles, any law or regulation to the contrary notwithstanding.

Sec. 5. Section 46.37.430, chapter 12, Laws of 1961 as last amended by section 1, chapter 304, Laws of 1985 and RCW 46.37.430 are each amended to read as follows:

(1) ~~((On and after January 1, 1938;))~~ No person ~~((shall))~~ may sell any new motor vehicle as specified ~~((herein))~~ in this title, nor ~~((shall))~~ may any new motor vehicle as specified ~~((herein))~~ in this title be registered ~~((thereafter))~~ unless such vehicle is equipped with safety glazing material of a type approved by the state commission on equipment wherever glazing material is used in doors, windows, and windshields. The foregoing provisions ~~((shall))~~ apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material ~~((shall apply))~~ applies to all glazing material used in doors, windows, and windshields in the drivers' compartments of such vehicles except as provided by subsection (4) of this section.

(2) The term "safety glazing materials" means glazing materials so constructed, treated, or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) ~~((The state commission on equipment shall compile and publish a list of types of glazing material by name approved by it as meeting the requirements of this section and))~~ The director of licensing shall not register ~~((after January 1, 1938;))~~ any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and he shall ~~((thereafter))~~ suspend the registration of any motor vehicle so subject to this section which he finds is not so equipped until it is made to conform to the requirements of this section.

(4) No person ~~((shall))~~ may sell or offer for sale, nor ~~((shall))~~ may any person operate a motor vehicle registered in this state which is equipped with, any camper manufactured after May 23, 1969, unless such camper is equipped with safety glazing material of a type ~~((approved))~~ conforming to rules adopted by the state commission on equipment wherever glazing materials are used in outside windows and doors.

(5) No tinting or coloring material that reduces light transmittance to any degree, unless it meets standards for such material adopted by the state commission on equipment, ~~((shall))~~ may be applied to the surface of the safety glazing material in a motor vehicle in any of the following locations:

(a) Windshields,

(b) Windows to the immediate right and left of the driver including windwings or,

(c) Rearmost windows if used for driving visibility by means of an interior rear-view mirror.

The standards adopted by the commission shall permit a greater degree of light reduction on a vehicle operated by or carrying as a passenger a person who possesses written verification from a licensed physician that the operator or passenger must be protected from exposure to sunlight for physical or medical reasons.

Nothing in this subsection (~~shall~~) prohibits the use of shaded or heat-absorbing safety glazing material in which the shading or heat-absorbing characteristics have been applied at the time of manufacture of the safety glazing material and which meet the standards of the state commission on equipment for such safety glazing materials.

(6) The standards used for approval of safety glazing materials by the state commission on equipment shall conform as closely as possible to the standards for safety glazing materials for motor vehicles promulgated by the United States of America Standards Institute in effect at the time of manufacture of the safety glazing material.

Sec. 6. Section 46.37.440, chapter 12, Laws of 1961 as last amended by section 38, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.440 are each amended to read as follows:

(1) No person (~~shall~~) may operate any motor truck, passenger bus, truck tractor, motor home, or travel trailer over eighty inches in overall width upon any highway outside the corporate limits of municipalities at any time unless there (~~shall be~~) is carried in such vehicle the following equipment except as provided in subsection (2) of this section:

(a) At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred feet under normal atmospheric conditions at nighttime.

No flare, fusee, electric lantern, or cloth warning flag (~~shall~~) may be used for the purpose of compliance with (~~the requirements of~~) this section unless such equipment is of a type which has been submitted to the state commission on equipment and (~~approved~~) conforms to rules adopted by it. No portable reflector unit (~~shall~~) may be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to be capable of reflecting red light clearly visible from all distances within six hundred feet to one hundred feet under normal atmospheric conditions at night when directly in front of lawful upper beams of head lamps, and unless it is of a type which has been submitted to the state commission on equipment and (~~approved~~) conforms to rules adopted by it;

(b) At least three red-burning fusees unless red electric lanterns or red portable emergency reflectors are carried;

(c) At least two red-cloth flags, not less than twelve inches square, with standards to support such flags.

(2) No person (~~shall~~) may operate at the time and under conditions stated in subsection (1) of this section any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases or liquefied gases, or any motor vehicle using compressed gas as a fuel unless there (~~shall be~~) is carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection (1) of this section, and there shall not be carried in any said vehicle any flares, fuseses, or signal produced by flame.

Sec. 7. Section 1, chapter 117, Laws of 1963 as amended by section 42, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.510 are each amended to read as follows:

(1) No person (~~shall~~) may sell any automobile manufactured or assembled after January 1, 1964, nor (~~shall~~) may any owner cause such vehicle to be registered thereafter under the provisions of chapter 46.12 RCW unless such motor car or automobile is equipped with automobile seat belts installed for use on the front seats thereof which are of a type and installed in a manner (~~approved~~) conforming to rules adopted by the state commission on equipment. Where registration is for transfer from an out-of-state license, the applicant shall be informed of this section by the issuing agent and (~~have~~) has thirty days to comply. The state commission on equipment shall adopt and enforce standards as to what (~~shall~~) constitutes adequate and safe seat belts and for the fastening and installation (~~thereof~~) of them. Such standards shall not (~~to~~) be below those specified as minimum requirements by the Society of Automotive Engineers on June 13, 1963.

(2) Every passenger car manufactured or assembled after January 1, 1965, shall be equipped with at least two lap-type safety belt assemblies for use in the front seating positions.

(3) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with a lap-type safety belt assembly for each permanent passenger seating position. This requirement shall not apply to police vehicles.

(4) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with at least two shoulder harness-type safety belt assemblies for use in the front seating positions.

(5) The commission on equipment shall excuse specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections (1), (2), and (3) of this section when compliance would be impractical.

(6) No person (~~shall~~) may distribute, have for sale, offer for sale, or sell any safety belt or shoulder harness for use in motor vehicles unless it

meets current minimum standards and specifications ~~((approved))~~ conforming to rules adopted by the commission or the United States department of transportation.

Sec. 8. Section 4, chapter 232, Laws of 1967 as last amended by section 7, chapter 77, Laws of 1982 and RCW 46.37.530 are each amended to read as follows:

(1) It is unlawful:

(a) For any person to operate a motorcycle or motor-driven cycle not equipped with mirrors on the left and right sides of the motorcycle which shall be so located as to give the driver a complete view of the highway for a distance of at least two hundred feet to the rear of the motorcycle or motor-driven cycle: **PROVIDED**, That mirrors shall not be required on any motorcycle or motor-driven cycle over twenty-five years old originally manufactured without mirrors and which has been restored to its original condition and which is being ridden to or from or otherwise in conjunction with an antique or classic motorcycle contest, show, or other such assemblage: **PROVIDED FURTHER**, That no mirror ~~((shall be))~~ is required on any motorcycle manufactured prior to January 1, 1931;

(b) For any person to operate a motorcycle or motor-driven cycle which does not have a windshield unless wearing glasses, goggles, or a face shield of a type ~~((approved))~~ conforming to rules adopted by the state commission on equipment;

(c) For any person to sell or offer for sale a motorcycle helmet which does not meet the requirements established by the state commission on equipment.

(2) The state commission on equipment is hereby authorized and empowered to adopt and amend ~~((regulations))~~ rules, pursuant to the administrative procedure act, concerning the standards and procedures for ~~((approval of))~~ conformance of rules adopted for glasses, goggles, face shields, and protective helmets. ~~((The state commission on equipment shall maintain and publish a list of those devices which the commission on equipment has approved:))~~

Sec. 9. Section 10, chapter 232, Laws of 1967 as amended by section 56, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.535 are each amended to read as follows:

It is unlawful for any person to rent out motorcycles unless he ~~((shall))~~ also ~~((have))~~ has on hand for rent helmets of a type ~~((approved))~~ conforming to rules adopted by the commission on equipment.

Passed the House February 16, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 114

[Substitute House Bill No. 1493]

MOTORIST SERVICE BUSINESS SIGNS—LOCATED WITHIN ONE MILE OF
STATE HIGHWAY—LOCATED WITHIN COUNTY, CITY, OR TOWN
JURISDICTION—REQUIREMENTS

AN ACT Relating to signs for motorist service businesses; amending RCW 47.42.046 and 47.42.047; and adding a new section to chapter 47.42 RCW.

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

Sec. 1. Section 2, chapter 80, Laws of 1974 ex. sess. as last amended by section 1, chapter 142, Laws of 1985 and RCW 47.42.046 are each amended to read as follows:

The department is authorized to erect and maintain specific information panels within the right of way of the interstate highway system to give the traveling public specific information as to gas, food, or lodging available on a crossroad at or near an interchange. Specific information panels shall include the words "GAS," "FOOD," or "LODGING" and directional information and may contain one or more individual business signs maintained on the panel. Specific information panels are authorized within the corporate limits of cities and towns and areas zoned for commercial or industrial uses at locations where there is adequate distance between interchanges to ensure compliance with the provisions of Title 23 C.F.R. sec. 655.307(a). The erection and maintenance of specific information panels shall conform to the national standards promulgated by the United States secretary of transportation pursuant to sections 131 and 315 of Title 23, United States Code and rules adopted by the state department of transportation. A motorist service business located within one mile of a state highway shall not be permitted to display its name, brand, or trademark on a specific information panel unless its owner has first entered into an agreement with the department limiting the height of its on-premise signs at the site of its service installation to not more than fifteen feet higher than the roof of its main building. The department shall charge reasonable fees for the display of individual business signs to defray the costs of their installation and maintenance.

Sec. 2. Section 4, chapter 80, Laws of 1974 ex. sess. as last amended by section 4, chapter 376, Laws of 1985 and RCW 47.42.047 are each amended to read as follows:

The department is authorized to erect and maintain specific information panels within the right of way of both the primary system and the scenic system to give the traveling public specific information as to gas, food, recreation, or lodging available off the primary or scenic highway accessible

by way of highways intersecting the primary or scenic highway. Such specific information panels and tourist-oriented directional signs shall be permitted only at locations within the corporate limits of cities and towns and areas zoned for commercial or industrial uses where there is adequate distance between interchanges to ensure compliance with the provisions of Title 23 C.F.R. secs. 655.308(a) and 655.309(a). Specific information panels shall include the words "GAS," "FOOD," "RECREATION," or "LODGING" and directional information and may contain one or more individual business signs maintained on the panel. The erection and maintenance of specific information panels along primary or scenic highways shall conform to the national standards promulgated by the United States secretary of transportation pursuant to sections 131 and 315 of Title 23 United States Code and rules adopted by the state department of transportation including the manual on uniform traffic control devices for streets and highways. A motorist service business located within one mile of a state highway shall not be permitted to display its name, brand, or trademark on a specific information panel unless its owner has first entered into an agreement with the department limiting the height of its on-premise signs at the site of its service installation to not more than fifteen feet higher than the roof of its main building.

The department shall adopt rules for the erection and maintenance of tourist-oriented directional signs with the following restrictions:

(1) Where installed, they shall be placed in advance of the "GAS," "FOOD," "RECREATION," or "LODGING" specific information panels previously described in this section;

(2) Signs shall not be placed to direct a motorist to an activity visible from the main traveled roadway;

(3) Premises on which the qualified tourist-oriented business is located must be within fifteen miles of the state highway, and necessary supplemental signing on local roads must be provided before the installation of the signs on the state highway.

The department shall charge reasonable fees for the display of individual business signs to defray the costs of their installation and maintenance.

NEW SECTION. Sec. 3. A new section is added to chapter 47.42 RCW to read as follows:

(1) The legislative authority of any county, city, or town may erect, or permit the erection of, supplemental directional signs directing motorists to motorist service businesses qualified for specific information panels pursuant to RCW 47.42.047 in any location on, or adjacent to, the right of way of any roads or streets within their jurisdiction.

(2) Appropriate fees may be charged to cover the cost of issuing permits, installation, or maintenance of such signs.

(3) Supplemental signs and their locations shall comply with all applicable provisions of this chapter, sections 131 and 315 of Title 23 United

States Code, and such rules as may be adopted by the department including the manual on uniform traffic control devices for streets and highways.

Passed the House February 13, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 115

[Substitute House Bill No. 1495]

HEALTH CARE ASSISTANTS—FUNCTIONS ASSOCIATED WITH RENAL DIALYSIS

AN ACT Relating to health care assistants; and amending RCW 18.135.060 and 18.135.020.

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

Sec. 1. Section 6, chapter 281, Laws of 1984 and RCW 18.135.060 are each amended to read as follows:

Any health care assistant certified pursuant to this chapter shall perform the functions authorized in this chapter only by delegation of authority from the health care practitioner and under the supervision of a health care practitioner acting within the scope of his or her license. In the case of subcutaneous, intradermal and intramuscular and intravenous injections, a health care assistant may perform such functions only under the supervision of a health care practitioner having authority, within the scope of his or her license, to order such procedures: PROVIDED, That a health care assistant trained by a federally approved end-stage renal disease facility may perform venipuncture for blood withdrawal, administration of oxygen as necessary by cannula or mask, venipuncture for placement of fistula needles, intravenous administration of heparin and sodium chloride solutions as an integral part of dialysis treatment, and intradermal, subcutaneous, or topical administration of local anesthetics in conjunction with placement of fistula needles, and intraperitoneal administration of sterile electrolyte solutions and heparin for peritoneal dialysis, in the center or health care facility or in the patient's home if a registered nurse licensed under chapter 18.88 RCW is physically present and immediately available in such health care facility for patients dialyzing in the health care facility or center or for patients dialyzing at home if a physician and a registered nurse are available for consultation during the dialysis.

Sec. 2. Section 2, chapter 281, Laws of 1984 and RCW 18.135.020 are each amended to read as follows:

As used in this chapter:

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

(2) "Health care assistant" means an unlicensed person who assists a licensed health care practitioner in providing health care to patients pursuant to this chapter.

(3) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW((;));

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW((;)); or((;))

(c) Acting within the scope of their respective licensures, a podiatrist licensed under chapter 18.22 RCW or a registered nurse licensed under chapter 18.88 RCW.

(4) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility during the administration of injections, as defined in this chapter, but need not be present during procedures to withdraw blood.

(5) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, renal dialysis center or facility federally approved under 42 C.F.R. 405.2100, ((σ)) blood bank federally licensed under 21 C.F.R. 607, or clinical laboratory certified under 20 C.F.R. 405.1301-16.

(6) "Delegation" means direct authorization granted by a licensed health care practitioner to a health care assistant to perform the functions authorized in this chapter which fall within the scope of practice of the delegator and which are not within the scope of practice of the delegatee.

Passed the House March 8, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 116

[Engrossed Substitute House Bill No. 1754]

ECONOMIC DEVELOPMENT—FIRST SOURCE CONTRACTS—TAX DEFERRALS FOR ELIGIBLE INVESTMENT PROJECTS—TAX CREDITS FOR ELIGIBLE BUSINESS PROJECTS

AN ACT Relating to economic development; amending RCW 82.61.010, 82.61.040, 82.61.070, 82.60.020, and 82.60.040; adding a new chapter to Title 50 RCW; adding a new section to chapter 82.60 RCW; adding a new chapter to Title 82 RCW; providing expiration dates; 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 the essential purpose of state economic development programs is to encourage the hiring of the unemployed. It is of even greater benefit to the state if those hired

were drawing unemployment benefits or public assistance and the benefits terminate when employment is secured. A targeted program that encourages employers to make a good faith effort to hire public assistance recipients and the unemployed will provide benefits to the state of Washington.

NEW SECTION. Sec. 2. (1) "Department" means the employment security department.

(2) "First source contract" means an agreement by an employer to screen applicants from a pool of qualified individuals, if any, submitted to the employer by the department and to consider hiring from that pool.

NEW SECTION. Sec. 3. The department shall encourage the use of first source contracts with employers looking to locate or expand in the state. The department shall make every effort to guarantee easy access by employers to qualified workers. The commissioner may delegate duties under this chapter to a local organization.

NEW SECTION. Sec. 4. The department may provide specific financial incentives to employers who sign first source agreements if state funds are appropriated or if federal funds are made available for that purpose. The incentives may include but shall not be limited to providing an employer with up to fifty percent of a trainee's wages during the first ten weeks of employment and on-the-job training.

NEW SECTION. Sec. 5. An employer and a prospective employee to be hired from the pool may agree to a thirty-day training period, at the end of which time the employer shall make a decision whether to hire the individual. The individual may continue to draw unemployment or public assistance, or both during the thirty-day training period.

NEW SECTION. Sec. 6. The funds specified in section 4 of this act shall be available during the thirty-day training period.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 50 RCW.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act shall expire December 31, 1989.

*Sec. 9. Section 1, chapter 2, Laws of 1985 ex. sess. and RCW 82.61-.010 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Person" has the meaning given in RCW 82.04.030.

(3) "Department" means the department of revenue.

(4) "Eligible investment project" means: (a) Construction of new buildings and the acquisition of related machinery and equipment when the

buildings, machinery, and equipment are to be used for either manufacturing or research and development activities, which construction is commenced prior to December 31, ~~((1986))~~ 1988; or (b) acquisition prior to December 31, 1988, of machinery and equipment to be used for either manufacturing or research and development if the machinery and equipment is housed in a new leased structure: PROVIDED, That the lessor/owner of the structure is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person.

In addition to the requirements of this section, a project must create at least one new full-time qualified employment position for each three hundred thousand dollars of investment on which a deferral is requested.

(5) "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 includes the production or fabrication of specially made or custom-made articles.

(6) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun.

(7) "Buildings" means only those new structures used for either manufacturing or research and development activities, including plant offices and warehouses or other facilities for the storage of raw materials or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development purposes. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(8) "Machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery. For purposes of this definition, new machinery and equipment means either new to the taxing jurisdiction of the state or new to the certificate holder. Used machinery and equipment are eligible for deferral if the certificate holder either brings the machinery and equipment into Washington or makes a retail purchase of the machinery and equipment in Washington or elsewhere.

(9) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year.

(10) "Recipient" means a person receiving a tax deferral under this chapter.

~~((+0))~~ (11) "Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

~~((+1))~~ (12) "Operationally complete" means constructed or improved to the point of being functionally useable for the intended purpose.

~~((+2))~~ (13) "Initiation of construction" means that date upon which on-site construction commences.

*Sec. 9 was partially vetoed, see message at end of chapter.

Sec. 10. Section 8, chapter 2, Laws of 1985 ex. sess. and RCW 82.61-.040 are each amended to read as follows:

RCW 82.61.020 and 82.61.030 shall expire July 1, ~~((+1986))~~ 1988.

Sec. 11. Section 6, chapter 2, Laws of 1985 ex. sess. and RCW 82.61-.070 are each amended to read as follows:

The department and the department of trade and economic development shall jointly report to the legislature about the effects of this chapter on new manufacturing and research and development activities in this state. The report shall contain information concerning the number of deferral certificates granted, the amount of sales tax deferred, the number of jobs created and other information useful in measuring such effects. Reports shall be submitted by January 1, 1986, and by January 1 ~~((+1987))~~ of each year through 1989.

Sec. 12. Section 2, chapter 232, Laws of 1985 and RCW 82.60.020 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means a county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent.

(4)(a) "Eligible investment project" means that portion of an investment project which:

(i) Is directly utilized to create at least one new full-time qualified employment position for each ~~((two))~~ three hundred thousand dollars of investment on which a deferral is requested; and

(ii) Either initiates a new operation, or expands or diversifies a current operation by expanding or renovating an existing building with costs in excess of twenty-five percent of the true and fair value of the plant complex prior to improvement; ~~((and))~~ or

(iii) ~~((Does not exceed twenty million dollars in value))~~ Acquires machinery and equipment to be used for either manufacturing or research and development if the machinery and equipment is housed in a new leased structure: PROVIDED, That the lessor/owner of the structure is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person.

(b) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(5) or investment projects which have already received deferrals under this chapter.

(5) "Investment project" means an investment in qualified buildings and qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(6) "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.

(7) "Person" has the meaning given in RCW 82.04.030.

(8) "Qualified buildings" means new structures used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(9) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year.

(10) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software;

data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(11) "Recipient" means a person receiving a tax deferral under this chapter.

(12) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

Sec. 13. Section 4, chapter 232, Laws of 1985 and RCW 82.60.040 are each amended to read as follows:

(1) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project located in an eligible area.

(2) The department shall keep a running total of all deferrals granted under this chapter during each fiscal biennium. ~~((The department shall not allow any deferrals which would cause the tabulation for a biennium to exceed twenty million dollars. If all or part of an application for deferral is disallowed under this subsection, the disallowed portion shall be carried over for approval the next biennium. However, the applicant's carryover into the next biennium is only permitted if the tabulation for the next biennium does not exceed twenty million dollars as of the date on which the department has disallowed the application.))~~

NEW SECTION. Sec. 14. A new section is added to chapter 82.60 RCW to read as follows:

Notwithstanding any other provision of this chapter, taxes deferred under this chapter on the sale or use of labor that is directly used in the construction of an investment project for which a deferral has been granted under this chapter after the effective date of this act need not be repaid.

NEW SECTION. Sec. 15. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means a county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility: PROVIDED, That the applicant's average full-time qualified employment positions at the specific facility will be at least fifteen percent greater in the year for which the credit is being sought than the applicant's average full-time qualified employment positions at the same facility in the immediately preceding year.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010(5) or that portion of a business project creating qualified full-time employment positions outside an eligible area or those recipients of a sales tax deferral under chapter 82.61 RCW.

(5) "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.

(6) "Person" has the meaning given in RCW 82.04.030.

(7) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during the entire tax year.

(8) "Tax year" means the calendar year in which taxes are due.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

NEW SECTION. Sec. 16. Application for tax credits under this chapter must be made before the actual hiring of qualified employment positions. The application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the location of the business project, the applicant's average employment, if any, at the facility for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department shall rule on the application within sixty days.

NEW SECTION. Sec. 17. (1) A person shall be allowed a credit against the tax due under chapter 82.04 RCW of an amount equal to one thousand dollars for each qualified employment position directly created in an eligible business project.

(2) The department shall keep a running total of all credits granted under this chapter during each fiscal biennium. The department shall not allow any credits which would cause the tabulation for a biennium to exceed fifteen million dollars. If all or part of an application for credit is disallowed under this subsection, the disallowed portion shall be carried over for approval the next biennium. However, the applicant's carryover into the next biennium is only permitted if the tabulation for the next biennium does not exceed fifteen million dollars as of the date on which the department has disallowed the application.

(3) No recipient is eligible for tax credits in excess of three hundred thousand dollars.

(4) No recipient may use the tax credits to decertify a union or to displace existing jobs in any community in the state.

(5) No recipient may receive a tax credit on taxes which have not been paid during the taxable year.

NEW SECTION. Sec. 18. (1) Each recipient shall submit a report to the department on December 31st of each year. The report shall contain information, as required by the department, from which the department may determine whether the recipient is meeting the requirements of this chapter. If the recipient fails to submit a report or submits an inadequate report, the department may declare the amount of taxes for which a credit has been used to be immediately assessed and payable.

(2) If, on the basis of a report under this section or other information, the department finds that a business project is not eligible for tax credit under this chapter for reasons other than failure to create the required number of qualified employment positions, the amount of taxes for which a credit has been used for the project shall be immediately due.

(3) If, on the basis of a report under this section or other information, the department finds that a business project has failed to create the specified number of qualified employment positions, the department shall assess interest, but not penalties, on the credited taxes for which a credit has been used for the project. The interest shall be assessed at the rate provided for delinquent excise taxes, shall be assessed retroactively to the date of the tax credit, and shall accrue until the taxes for which a credit has been used are repaid.

NEW SECTION. Sec. 19. The employment security department shall make, and certify to the department of revenue, all determinations of employment and wages required under this chapter.

NEW SECTION. Sec. 20. Chapter 82.32 RCW applies to the administration of this chapter.

NEW SECTION. Sec. 21. Sections 15 through 20 of this act shall constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 22. Sections 16 and 17 of this act shall expire July 1, 1988.

NEW SECTION. Sec. 23. 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. 24. Sections 15 through 20 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 April 1, 1986.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor March 22, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 22, 1986.

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

"I am returning herewith, without my approval as to one provision, Substitute House Bill No. 1754, entitled:

"AN ACT Relating to economic development."

I strongly support this bill's intent to strengthen the State's commitment to stimulating employment and job-creating private investment, particularly in economically distressed areas, as well as to encourage companies that receive State economic development assistance to hire job applicants from among the unemployed and welfare recipients.

This bill makes certain needed changes in existing legislation which provides for the deferral of sales tax on eligible investments in manufacturing facilities and equipment. The majority of these changes are reasonable and are supported by our experience to date with these programs.

However, I am vetoing that portion of Section 9(4) that would limit the sales tax deferral granted to firms making eligible investments in the state for the first time to a total amount not exceeding \$300,000 per new full-time employment position created. This proposed limitation is not a part of the existing sales tax deferral statute for eligible first-time investments by manufacturing and research and development firms. Although I believe that creating new jobs is one important policy objective for the State's sales tax deferral programs, I am concerned, that enactment of this particular limitation would conflict with another important program objective—namely, to enhance the Washington's competitiveness with other states in attracting certain industries for which this state possesses distinct strategic advantages. Washington is one of the few states that taxes capital expenditures and thereby significantly increases entry costs here compared to other states with whom this State competes for new investment.

Our experience with the program thus far has demonstrated that the limitation proposed in this bill would significantly reduce the number of industries that Washington could pursue to strategically diversify and expand our economic base. In

particular, this limitation would make it more difficult to attract the more capital intensive, higher value-added, industries that tend to provide higher wage employment. Industries of this type are critical to raising Washington incomes and stimulating spin-off employment and growth in new industries.

Therefore, with the exception of that portion of Section 9(4) which I have vetoed, Substitute House Bill No. 1754 is approved."

CHAPTER 117

[Senate Bill No. 4490]

CORPORATIONS

AN ACT Relating to corporations; amending RCW 23A.04.010, 23A.08.070, 23A.08-.080, 23A.08.110, 23A.08.120, 23A.08.150, 23A.08.250, 23A.08.260, 23A.08.270, 23A.08.305, 23A.08.380, 23A.08.390, 23A.08.400, 23A.08.450, 23A.16.020, 23A.16.075, 23A.32.050, 23A.32.090, 23A.32.100, 23A.32.130, 23A.32.160, 23A.32.170, and 23A.40.020; repealing RCW 23A.32.110 and 23A.32.120; adding new sections to chapter 23A.32 RCW; and declaring an emergency.

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

Sec. 1. Section 3, chapter 53, Laws of 1965 as last amended by section 1, chapter 75, Laws of 1984 and RCW 23A.04.010 are each amended to read as follows:

As used in this title, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this title, except a foreign corporation.

(2) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this title.

(3) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

(4) "Shares" means the units into which the proprietary interests in a corporation are divided.

(5) "Subscriber" means one who subscribes for one or more shares in a corporation, whether before or after incorporation.

(6) "Shareholder" means one who is a holder of record of one or more shares in a corporation. If the articles of incorporation or the bylaws so provide, the board of directors may adopt by resolution a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of such shareholder are held for the account of a specified person or persons. The resolution shall set forth:

(a) The classification of shareholder who may certify;

(b) The purpose or purposes for which the certification may be made;

(c) The form of certification and information to be contained therein;

(d) If the certification is with respect to a record date or closing of the stock transfer books within which the certification must be received by the corporation; and

(e) Such other provisions with respect to the procedure as are deemed necessary or desirable.

Upon receipt by the corporation of a certification complying with the procedure, the persons specified in the certification shall be deemed, for the purpose or purposes set forth in the certification, to be the holders of record of the number of shares specified in place of the shareholder making the certification.

(7) "Authorized shares" means the shares of all classes which the corporation is authorized to issue.

(8) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(9) "Conforms to law" as used in this title in connection with duties of the secretary of state in reviewing documents for filing under this title means the secretary of state has determined the document complies as to form with the applicable requirements of this title.

(10) "Effective date" means, in connection with a filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this title and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the date of receipt which might otherwise be applied as the effective date.

(11) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person submitting the document with the secretary of state.

(12) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the secretary or the treasurer of the corporation.

(13) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a dividend; a purchase, redemption, or other acquisition of shares; or otherwise.

(14) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 of the securities exchange act of 1934, or any successor statute, and that has more than three hundred holders of record of its shares.

Sec. 2. Section 10, chapter 53, Laws of 1965 and RCW 23A.08.070 are each amended to read as follows:

Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state (a) an application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state a registration fee in the amount of ~~((one))~~ twenty dollars ~~((for each month, or fraction thereof, between the date of filing such application and December thirty-first of the calendar year in which such application is filed.))~~

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

Sec. 3. Section 11, chapter 53, Laws of 1965 and RCW 23A.08.080 are each amended to read as follows:

A corporation which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of ~~((ten))~~ twenty dollars. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year.

Sec. 4. Section 14, chapter 53, Laws of 1965 as last amended by section 8, chapter 35, Laws of 1982 and F.C.W 23A.08.110 are each amended to read as follows:

The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the secretary of the corporation ((at its registered office)) as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Sec. 5. Section 15, chapter 53, Laws of 1965 as last amended by section 1, chapter 290, Laws of 1985 and RCW 23A.08.120 are each amended to read as follows:

Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. Any of the designations, preferences, limitations, or relative rights of any class or series may be made dependent upon facts ascertainable outside the articles of incorporation or of any amendment thereto, or outside the resolution or resolutions providing for the issue of shares adopted by the board of directors pursuant to authority expressly vested in it by its articles of incorporation, if the manner in which such facts shall operate on the designations, preferences, limitations, or relative rights of such class or series is clearly and expressly set forth in the articles of incorporation or in the resolution or resolutions providing for the issue of such shares adopted by the board of directors. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this title.

Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

(1) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

(2) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends.

(3) Having preference over any other class or classes of shares as to the payment of dividends.

(4) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation.

(5) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation.

Sec. 6. Section 18, chapter 53, Laws of 1965 as last amended by section 7, chapter 75, Laws of 1984 and RCW 23A.08.150 are each amended to read as follows:

Subject to any restrictions in the articles of incorporation(:

~~(1) Shares may be issued for such consideration as shall be authorized by the board of directors establishing a price (in money or other consideration) or a minimum price or general formula or method by which the price will be determined; and~~

~~(2) Upon authorization by the board of directors)),~~ the corporation, upon authorization by the board of directors, may issue its own shares in exchange for or in conversion of its outstanding shares, or distribute its own shares, pro rata to its shareholders or the shareholders of one or more classes or series, to effectuate stock dividends or splits, and any such transaction shall not require consideration. However, such issuance of shares of any class or series shall not be made to the holders of shares of any other class or series unless it is either expressly provided for in the articles of incorporation, or is authorized by an affirmative vote or the written consent of the holders of at least a majority of the outstanding shares of the class or series in which the distribution is to be made.

Sec. 7. Section 28, chapter 53, Laws of 1965 as amended by section 13, chapter 16, Laws of 1979 and RCW 23A.08.250 are each amended to read as follows:

Meetings of shareholders may be held at such place within or without this state as may be stated in or fixed in accordance with the bylaws. If no place is stated or so fixed, meetings shall be held at the principal place of business of the corporation.

An annual meeting of the shareholders shall be held at such time as may be stated in or fixed in accordance with the bylaws. If the annual meeting is not held within any thirteen-month period the superior court may, on the application of any shareholder for a writ of mandamus, summarily order a meeting to be held.

Special meetings of the shareholders may be called by the board of directors, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or such other persons as may be authorized in the articles of incorporation or the bylaws. The right of shareholders of a public company to call a special meeting of shareholders may be limited or denied to the extent provided in the articles of incorporation.

Sec. 8. Section 29, chapter 53, Laws of 1965 and RCW 23A.08.260 are each amended to read as follows:

Written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than ~~((fifty))~~ sixty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

Sec. 9. Section 30, chapter 53, Laws of 1965 and RCW 23A.08.270 are each amended to read as follows:

For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, ~~((fifty))~~ sixty days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw, the board of directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than ~~((fifty))~~ sixty days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the

case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

Sec. 10. Section 5, chapter 58, Laws of 1969 ex. sess. as amended by section 1, chapter 28, Laws of 1973 and RCW 23A.08.305 are each amended to read as follows:

Upon a showing to the superior court of the county in which the registered office of a corporation is situated that:

(1) The addresses of the shareholders of record are lost, destroyed, incomplete or inadequate, and

(2) Notice of a meeting of shareholders for a purpose requiring the affirmative vote of the holders of two-thirds of any class of shares has been given in the manner required by law as nearly as may be done and has been published in a legal newspaper in Thurston county and in the county in which the registered office of the corporation is situated not less than ten nor more than ~~((fifty))~~ sixty days before the date of the meeting, the court shall appoint a disinterested person to represent the missing shareholders of record at the meeting and to report his findings to the court which findings may include comments upon the showing made to the court as hereinabove provided. The court shall then approve any action taken at the meeting by the shareholders present in person or by proxy if the court is satisfied that it is in the best interests of the missing shareholders, and such approval shall have the same force and effect as an affirmative vote at the meeting by the missing shareholders. Said disinterested person shall receive reasonable compensation for his services from the corporation, to be fixed by the court.

(3) Published notice given under subsection (2) of this section shall state that:

(a) shareholders who have not received notice by mail will be treated as missing shareholders; and

(b) if the missing shareholders fail to appear at the shareholders' meeting, the court will appoint a person to vote their shares.

Sec. 11. Section 41, chapter 53, Laws of 1965 as amended by section 20, chapter 16, Laws of 1979 and RCW 23A.08.380 are each amended to read as follows:

At a meeting of shareholders called expressly for that purpose, directors may be removed in the manner provided in this section. Any director or the entire board of directors may be removed, with or without cause (unless the articles of incorporation provide that directors may be removed only for cause), by a vote of the holders of a majority of the shares then entitled to vote at an election of directors.

In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no one of the directors may be removed if the

votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which he is a part.

Whenever the holders of the shares of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect to the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole.

Sec. 12. Section 42, chapter 53, Laws of 1965 as last amended by section 7, chapter 290, Laws of 1985 and RCW 23A.08.390 are each amended read as follows:

~~((1) Except as provided in subsection (2) of this section:~~

~~(a)) A majority of the number of directors fixed by or in the manner provided in the bylaws, or in the absence of a bylaw fixing or providing for the number of directors, then of the number fixed by or in the manner provided in the articles of incorporation, shall constitute a quorum for the transaction of business unless a greater number is required by the articles of incorporation or the bylaws.~~

~~((b)) The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the bylaws.~~

~~((2) If a transaction with a corporation in which a director or an officer has a direct or indirect interest is authorized, approved, or ratified by the vote of a majority of directors with no direct or indirect interest in the transaction:~~

~~(a) A quorum for purposes of taking such action is present; and~~

~~(b) The act of such majority of disinterested directors is the act of the board of directors:))~~

Sec. 13. Section 43, chapter 53, Laws of 1965 as last amended by section 13, chapter 75, Laws of 1984 and RCW 23A.08.400 are each amended to read as follows:

If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, except that no such committee shall have the authority to: (1) Authorize distributions~~((except at a rate or in periodic amount determined by the board of directors))~~ or the issuance of shares, unless a resolution of the board of directors, or the bylaws, or articles of incorporation expressly so provide, (2) approve or recommend to shareholders actions or proposals required by this

title to be approved by shareholders, (3) fill vacancies on the board of directors or any committee thereof, (4) amend the bylaws, (5) fix compensation of any director for serving on the board of directors or on any committee, (6) approve a plan of merger, consolidation, or exchange of shares not requiring shareholder approval, ((or)) (7) appoint other committees of the board of directors or the members thereof, or (8) amend the articles of incorporation, except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares adopted by the board of directors as provided in RCW 23A.08.130, fix any of the relative rights and preferences of such shares.

Sec. 14. Section 48, chapter 53, Laws of 1965 as last amended by section 9, chapter 290, Laws of 1985 and RCW 23A.08.450 are each amended to read as follows:

In addition to any other liabilities, directors shall be liable in the following circumstances unless they comply with the standard provided in RCW 23A.08.343 for the performance of the duties of directors:

(1) Directors of a corporation who vote for or assent to any distribution contrary to the provisions of this title, or contrary to any restrictions contained in the articles of incorporation, shall be liable to the corporation, jointly and severally with all other directors so voting or assenting, for the amount of such distribution in excess of the amount of such distribution which could have been made without a violation of the provisions of this title or the restrictions in the articles of incorporation.

(2) The directors of a corporation who vote for or assent to the making of a loan to a director of the corporation ~~((, or the making of any loan secured by shares of the corporation;))~~ shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof, unless approved as provided in RCW 23A.08.445.

Any director against whom a claim shall be asserted under or pursuant to this section for the making of a distribution and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such distribution, knowing such distribution to have been made in violation of this title, in proportion to the amounts received by them respectively.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from any other director who voted for or assented to the action upon which the claim is asserted and who did not comply with the standard provided in this title for the performance of the duties of directors.

Sec. 15. Section 61, chapter 53, Laws of 1965 as last amended by section 18, chapter 75, Laws of 1984 and RCW 23A.16.020 are each amended to read as follows:

Amendments to the articles of incorporation shall be made in the following manner:

(1) The board of directors shall adopt a resolution setting forth the proposed amendment and, if shares have been issued, directing that it be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. If no shares have been issued, the amendment shall be adopted by resolution of the board of directors and the provisions for adoption by shareholders shall not apply. If the corporation has only one class of shares outstanding, an amendment solely to provide, change, or eliminate any provision with respect to the par value of any class of shares, or solely to change the number of authorized shares to effectuate a split of, or stock dividend in, the corporation's own shares, or solely to do so and to change the number of authorized shares in proportion thereto, may be adopted by the board of directors; and the provisions for adoption by shareholders shall not apply, unless otherwise provided by the articles of incorporation. ~~((The resolution may incorporate the proposed amendment in restated articles of incorporation which contain a statement that except for the designated amendment the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation together with the designated amendment supersede the original articles of incorporation and all amendments thereto.))~~

(2) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this title for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

(3) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon, or, in the case of a public company, a majority of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon or, in the case of a public company, a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

Any number of amendments may be submitted to the shareholders, and voted upon by them, at one meeting.

Sec. 16. Section 33, chapter 16, Laws of 1979 as amended by section 20, chapter 35, Laws of 1982 and RCW 23A.16.075 are each amended to read as follows:

A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

Upon the adoption of the resolution, restated articles of incorporation shall be executed in duplicate by the corporation by one of its officers (~~(signing the articles and)~~). The restated articles shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set forth without change the (~~(corresponding)~~) provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:

- (1) Endorse on each duplicate original the word "Filed" and the (~~(effective)~~) date of the filing thereof;
- (2) File one duplicate original in the secretary of state's office; and
- (3) Issue a restated certificate of incorporation, to which the other duplicate original shall be affixed.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

Sec. 17. Section 6, chapter 2, Laws of 1983 as last amended by section 16, chapter 290, Laws of 1985 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 (~~(in the state or country under the laws of which it is incorporated)~~).

(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. 18. Section 117, chapter 53, Laws of 1965 as last amended by section 48, chapter 35, Laws of 1982 and RCW 23A.32.090 are each amended to read as follows:

A foreign corporation authorized to transact business in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed.

(3) If its registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed in a form prescribed by the secretary of state by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds

that such statement conforms to the provisions of this title, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the secretary of the corporation at its principal office ((in the state or country under the laws of which it is incorporated)) as shown on the records of the secretary of state. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the state, he or it may change such address and the address of the registered office of any corporation of which he or it is a registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsections (3) or (5) of this section, and it must recite that a copy of the statement has been mailed to the secretary of the corporation.

Sec. 19. Section 118, chapter 53, Laws of 1965 as amended by section 49, chapter 35, Laws of 1982 and RCW 23A.32.100 are each amended to read as follows:

The registered agent so appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to transact business in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the secretary of the corporation at its principal office ((in the state or country under the laws of which it is incorporated)) as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

NEW SECTION. Sec. 20. A new section is added to chapter 23A.32 RCW to read as follows:

(1) A corporation revoked under RCW 23A.32.170 may apply to the secretary of state for reinstatement within two years after the effective date of revocation. An application filed within such two-year period may be amended or supplemented and any such amendment or supplement shall be effective as of the date of original filing. The application filed under this section shall be filed under and by authority of an officer of the corporation.

(2) The application shall:

(a) State the name of the corporation and, if applicable, the name the corporation had elected to use in this state at the time of revocation, and the effective date of its revocation;

(b) Provide an explanation to show that the grounds for revocation either did not exist or have been eliminated;

(c) State the name of the corporation at the time of reinstatement and, if applicable, the name the corporation elects to use in this state at the time of reinstatement, which may be reserved under RCW 23A.08.060;

(d) Appoint a registered agent and state the registered office address under RCW 23A.32.080; and

(e) Be accompanied by payment of applicable fees and penalties.

(3) If the secretary of state determines that the application conforms to law and that all applicable fees have been paid, the secretary of state shall cancel the certificate of revocation, prepare and file a certificate of reinstatement, and mail a copy of the certificate of reinstatement to the corporation.

(4) Reinstatement under this section relates back to and takes effect as of the date of revocation. The corporate authority shall be deemed to have continued without interruption from that date.

(5) In the event the application for reinstatement states a corporate name that the secretary of state finds to be contrary to the requirements of RCW 23A.32.030, the application, amended application, or supplemental application shall be amended to adopt another corporate name that is in compliance with RCW 23A.32.030. In the event the reinstatement application so adopts a new corporate name for use in Washington, the application for authority shall be deemed to have been amended to change the corporation's name to the name so adopted for use in Washington, effective as of the effective date of the certificate of reinstatement.

NEW SECTION. Sec. 21. A new section is added to chapter 23A.32 RCW to read as follows:

(1) An application processing fee of fifty dollars shall be charged for an application for reinstatement under section 20 of this act.

(2) An application processing fee of twenty-five dollars shall be charged for each amendment or supplement to an application for reinstatement.

(3) The corporation seeking reinstatement shall pay the full amount of all annual corporation license fees that would have been assessed for the license years of the period of administrative revocation had the corporation been in active status, plus a surcharge of twenty-five percent, and the license fee for the year of reinstatement.

(4) The charges in this section shall be in lieu of any other penalties or interest that could have been assessed by the secretary of state under the corporation laws or that, under those laws, would have accrued during any period of delinquency or revocation.

Sec. 22. Section 121, chapter 53, Laws of 1965 and RCW 23A.32.130 are each amended to read as follows:

A foreign corporation authorized to transact business in this state shall procure an amended certificate of authority in the event it changes (a) its corporate name, or ((desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority)) (b) the period of its duration, or (c) the state or country of its incorporation, by making application therefor to the secretary of state within sixty days of such change.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

Sec. 23. Section 124, chapter 53, Laws of 1965 as last amended by section 7, chapter 32, Laws of 1983 and RCW 23A.32.160 are each amended to read as follows:

(1) The certificate of authority of a foreign corporation to transact business in this state shall be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The corporation has failed to pay any fees or penalties prescribed by this title when they have become due and payable; or

(b) The corporation has failed to file any annual report prescribed by this title, and such omission has extended for a period of sixty days since the last day for timely filing; or

(c) The corporation has failed for sixty days to appoint and maintain a registered agent in this state as required by this title; or

(d) The corporation has failed, for sixty days after change of its registered office or registered agent, to file in the office of the secretary of state a statement of such change as required by this title; or

(e) The corporation has failed to file in the office of the secretary of state any amendment to its (~~articles of incorporation or any articles of merger~~) certificate of authority within the time prescribed by this title; or

(f) A misrepresentation has been made of any material matter in any application, report, affidavit or other document submitted by such corporation pursuant to this title; or

(g) The department of revenue has certified to the secretary of state that the corporation has failed to file a tax return and that a period of one year has passed since the last day permitted for timely filing of the return, without the corporation's having filed the return and made payment of all applicable taxes and penalties.

(2) Prior to revoking a certificate of authority under subsection (1) of this section, the secretary of state shall give the corporation written notice of the corporation's delinquency or omission by first class mail, postage prepaid, addressed to the corporation's registered agent. If, according to the records of the secretary of state, the corporation does not have a registered agent, the notice may be given by mail addressed to the corporation at its last known address or at the address of any officer or director of the corporation, as shown by the records of the secretary of state. Notice is deemed to have been given five days after the date deposited in the United States mail, correctly addressed, and with correct postage affixed. The notice shall inform the corporation that its certificate of authority shall be revoked at the expiration of sixty days following the date the notice has been deemed to have been given, unless it corrects the delinquency or omission within the sixty-day period.

(3) Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the earliest date on which (~~dissolution~~) revocation may occur, and the action necessary to cure the delinquency or omission prior to (~~dissolution~~) revocation.

(4) The attorney general may take such action regarding revocation of a certificate of authority as is provided by RCW 23A.28.130 through 23A.28.250, for the administrative dissolution of a domestic corporation. The procedures of RCW 23A.28.150 shall apply to any action under this section. The clerk of any superior court entering a decree of revocation of a certificate of authority shall file a certified copy, without cost or filing fee, with the office of the secretary of state.

Sec. 24. Section 125, chapter 53, Laws of 1965 as last amended by section 8, chapter 32, Laws of 1983 and RCW 23A.32.170 are each amended to read as follows:

When a corporation has given cause for revocation and has failed to correct the delinquency or omission within sixty days after notice has been deemed to have been given under RCW ((23A.32.125)) 23A.32.160, the secretary of state shall revoke the corporation's authority to conduct business in this state.

Upon revoking any such certificate of authority, the secretary of state shall:

(1) Issue a certificate of revocation in duplicate containing a statement that the corporation's authority to conduct business is revoked and the reasons for the revocation;

(2) File one of such certificates in the secretary of state's office;

(3) Mail the other duplicate certificate to such corporation at its registered office in this state or, if there is no registered office, to the corporation at the last known address of any officer or director of the corporation, as shown by the records of the secretary of state.

Upon the filing of such certificate of revocation, the authority of the corporation to transact business in this state shall cease.

Sec. 25. Section 135, chapter 53, Laws of 1965 as last amended by section 21, chapter 75, Laws of 1984 and RCW 23A.40.020 are each amended to read as follows:

The secretary of state shall charge and collect for:

(1) Filing articles of amendment or supplemental articles and issuing a certificate of amendment, twenty-five dollars;

(2) Filing restated articles of incorporation, twenty-five dollars;

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty-five dollars;

(4) Filing an application to reserve a corporate name, ten dollars;

(5) Filing a notice of transfer of a reserved corporate name, five dollars;

(6) Filing a statement of change of address of registered office, revocation, resignation, change of registered agent, affidavit of nonappointment, or any combination of these, five dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the filing of the annual report;

(7) Filing a statement of the establishment of a series of shares, ten dollars;

(8) Filing a statement of cancellation of shares, ten dollars;

(9) Filing a statement of intent to dissolve, no fee;

(10) Filing a statement of revocation of voluntary dissolution proceedings, no fee;

(11) Filing articles of dissolution, no fee;

(12) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, twenty-five dollars;

~~((13)) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, twenty-five dollars;~~

~~((14)) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, twenty-five dollars;~~

~~((15)) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee;~~

~~((16)) (14) Filing an annual report, five dollars, but a separate fee for filing such report shall not be charged for an annual report filed in conjunction with and part of the same forms or billing for the annual license renewal;~~

~~((17)) (15) Filing any other statement or report, ten dollars;~~

~~((18)) (16) Such other filings as are provided for by this title.~~

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

(1) Section 119, chapter 53, Laws of 1965 and RCW 23A.32.110; and

(2) Section 120, chapter 53, Laws of 1965 and RCW 23A.32.120.

NEW SECTION. Sec. 27. 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. 28. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 12, 1986.

Passed the House March 4, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 118

[Engrossed Substitute Senate Bill No. 4128]
CORRECTIONS STANDARDS BOARD

AN ACT Relating to the corrections standards board; amending RCW 19.27.060, 70.48-.020, 70.48.050, 70.48.060, 70.48.070, 70.48.080, 70.48.090, 70.48.110, 70.48.120, 70.48.130, 70.48.160, 70.48.200, 70.48.260, 70.48.280, 70.48.330, 70.48A.020, and 70.48A.040; and repealing RCW 70.48.030, 70.48.040, and 70.48.150.

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

Sec. 1. Section 2, chapter 316, Laws of 1977 ex. sess. as last amended by section 34, chapter 165, Laws of 1983 and RCW 70.48.020 are each amended to read as follows:

As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(2) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(3) "Special detention facility" means a minimum security facility operated by a governing unit primarily designed, staffed, and used for the housing of special populations of sentenced persons who do not require the level of security normally provided in detention and correctional facilities including, but not necessarily limited to, persons convicted of offenses under RCW 46.61.502 or 46.61.504.

(4) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(5) "Jail" means any holding, detention, special detention, or correctional facility as defined in this section.

(6) "Health care" means preventive, diagnostic, and rehabilitative services provided by licensed health care professionals and/or facilities; such care to include providing prescription drugs where indicated.

(7) (~~"Commission" means the state jail commission created pursuant to RCW 70.48.030 but, after June 30, 1983, "commission" and "state jail commission"~~) "Board" means the state corrections standards board.

(8) "Substantially remodeled" means significant alterations made to the physical plant of a jail to conform with the physical plant standards.

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

~~(10) "Secretary" means the secretary of social and health services.~~

~~(11))~~ "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

~~((12))~~ (10) "Mandatory custodial care standards" means those minimum standards, rules, or regulations that are adopted pursuant to RCW

70.48.050(1)(a) and 70.48.070(1) for jails to meet federal and state constitutional requirements relating to the health, safety, security, and welfare of inmates.

~~((13))~~ (11) "Advisory custodial care standards" means custodial care standards recommended by the ~~((commission))~~ board which are not mandatory.

~~((14))~~ (12) "Physical plant standards" and "physical plant requirements" mean those minimum standards, rules, or regulations that are prescribed by the ~~((commission for jails))~~ board that relate to structural specifications of the physical plant, including but not limited to size of cells and rooms within a jail, design of facilities, and specifications for fixtures and other equipment.

~~((15))~~ (13) "Jail inspector" means a person with at least five years in a supervisory position as a law enforcement or custodial corrections officer.

~~((16))~~ (14) "Major urban" means a county or combination of counties which has a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((17))~~ (15) "Medium urban" means a county or combination of counties which has a city having a population equal to or greater than ten thousand but less than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((18))~~ (16) "Rural" means a county or combination of counties which has a city having a population less than ten thousand based on the 1978 projections of the office of financial management.

Sec. 2. Section 5, chapter 316, Laws of 1977 ex. sess. as last amended by section 4, chapter 12, Laws of 1981 2nd ex. sess. and RCW 70.48.050 are each amended to read as follows:

In addition to any other powers and duties contained in this chapter, the ~~((commission))~~ board shall have the powers and duties:

(1) To adopt such rules and regulations, after approval by the legislature, pursuant to chapter 34.04 RCW, as it deems necessary and consistent with the purposes and intent of this chapter on the following subjects:

(a) Mandatory custodial care standards that are essential for the health, welfare, and security of persons confined in jails. In adopting each rule or regulation pertaining to mandatory custodial care standards, the ~~((commission))~~ board shall cite the applicable case law, statutory law or constitutional provision which requires such rule or regulation. The ~~((commission))~~ board shall grant variances from custodial care standards to governing units which operate jails with physical deficiencies which directly affect their ability to comply with these standards, if the governing unit is eligible for and has applied for funds under RCW 70.48.110. The variances remain in effect until state funding to improve or reconstruct the jails of these governing units has been expended for that purpose;

(b) Advisory custodial care standards;

(c) The classification and uses of holding, detention, and correctional facilities. Except for the housing of work releasees in accordance with ~~((commission))~~ board rules, a person may not be held in a holding facility longer than seventy-two hours, exclusive of weekends and holidays, without being transferred to a detention or correctional facility unless the court having jurisdiction over the individual authorizes a longer holding, but in no instance shall the holding exceed thirty days;

(d) The content of jail records which shall be maintained by the department of corrections or the chief law enforcement officer of the governing unit. In addition the governing unit, chief law enforcement officer, or department of corrections may require such additional records as they deem proper; and

(e) The segregation of persons and classes of persons confined in holding, detention, and correctional facilities;

(2) To investigate, develop, and encourage alternative and innovative methods in all phases of jail operation;

(3) To make comments, reports, and recommendations concerning all phases of jail operation including those not specifically described in this chapter;

(4) To hire necessary staff, acquire office space, supplies, and equipment, and make such other expenditures as may be deemed necessary to carry out its duties;

(5) ~~((The secretary shall submit minimum physical plant standards to the commission for review and promulgate proposed standards pursuant to chapter 34.04 RCW. After such promulgation, the standards shall be presented for review at a public conference of city, town, and county legislative and executive officials and directors of departments of correction or the chief law enforcement officers of the governing units in four regional meetings, two of which shall be east of the Cascade range. Subsequent to these reviews, and utilizing the data received, the commission shall))~~ To adopt minimum physical plant standards pursuant to chapter 34.04 RCW~~((, after approval by the legislature))~~ for jails. The ~~((commission))~~ board may preempt any provisions of the state building code under chapter 19.27 RCW and any local ordinances that apply to jails or a particular jail if the provisions relate to the installation or use of sprinklers in the cells and the ~~((commission))~~ board finds that compliance with the provisions would conflict with the secure and humane operation of jails or the particular jail;

(6) To cause all jails to be inspected at least annually by designated jail inspectors and to issue a certificate of compliance to each facility which is found to satisfactorily meet the requirements of this chapter and the rules, regulations, and standards adopted hereunder: PROVIDED, That certificates of partial compliance may be issued where applicable. The inspectors shall have access to all portions of jails, to all prisoners confined therein, and to all records maintained by said jails; and

(7) To establish advisory guidelines and model ordinances to assist governing units in establishing the agreements necessary for the joint operation of jails and for the determination of the rates of allowance for the daily costs of holding a prisoner pursuant to the provisions of RCW 70.48.080(6).

Sec. 3. Section 6, chapter 316, Laws of 1977 ex. sess. as last amended by section 1, chapter 87, Laws of 1982 and RCW 70.48.060 are each amended to read as follows:

(1) Any funds allocated to a governing unit for jail construction or renovation pursuant to this chapter shall constitute full funding of the cost of implementing the physical plant standards within the meaning of RCW 70.48.070(2). Jail construction or renovation represents the full extent of the state's financial commitment with regard to jails. Local governing units are responsible for funding all costs of operating jails.

(2) As a condition of eligibility for such financial assistance as may be provided by or through the state of Washington exclusively for the construction and/or modernization of jails, all jail construction and/or substantial remodeling projects shall be submitted by the governing unit to the ((commission)) board which shall review all submitted projects in accordance with rules to be adopted by the ((commission)) board and shall approve or reject each project for purposes of state funding. The ((commission)) board shall allocate available funding to the projects approved for funding in accordance with moneys actually available and the priorities established by the ((commission)) board under this section.

(3) The rules to be adopted by the ((commission)) board for purposes of approving or denying requests for state funds for jail construction or remodeling shall:

(i) Limit state funding to the minimum amount required to fully implement the physical plant standards;

(ii) Encourage the voluntary consolidation of jail facilities and programs of contiguous governing units where feasible: PROVIDED, That such consolidation is approved by all participating governing units: PROVIDED FURTHER, That the ((commission)) board may fund the minimum cost of approved remodeling of an existing county jail facility to be operated as a holding facility in the future when that county is a party to a multi-county consolidation agreement which meets the requirements of RCW 70.48.090, the cost of such holding facility remodeling project(s) and of the consolidated correctional facility project does not exceed the established maximum budgets for current detention and/or correctional facility projects of those governing units, and approval of such a revised concept maximizes the beds to be provided while maintaining or reducing the construction costs;

(iii) Insure that each governing unit or consolidation of governing units applying for state funds under this chapter has submitted a plan which demonstrates that pretrial and posttrial alternatives to incarceration are being considered within the governmental unit;

(iv) Establish criteria and procedures for setting priorities among the projects approved for state funding for purposes of allocating state funds actually available; and

(v) Establish procedures for the submission, review, and approval or denial of projects submitted and appeals from adverse determinations, including time periods applicable thereto.

(4) The ((~~commission~~)) board shall review all submitted projects with the office of financial management and the office of financial management shall provide technical assistance to the ((~~commission~~)) board for purposes of insuring the accuracy of statistical information to be used by the ((~~commission~~)) board in determining projects to be funded.

(5) The ((~~commission~~)) board shall oversee approved construction and remodeling to the extent necessary to assure compliance with the standards adopted and approved pursuant to RCW 70.48.050(5).

(6) The ((~~commission~~)) board shall develop estimates of the costs of the capital construction grants for each biennium required under the provisions of this chapter. The estimates shall be submitted to the office of financial management consistent with the provisions of chapter 43.88 RCW and the office of financial management shall review and approve or disapprove within thirty days.

(7) The ((~~commission~~)) board and the office of financial management shall jointly report to the legislature on or before the convening of a regular session as to the projects approved for funding, construction status of such projects, funds expended and encumbered to date, and updated population and incarceration statistics.

(8) The ((~~jail commission~~)) board shall examine, and by December 1, 1980, present to the legislature recommendations relating to detention and correctional services, including the formulation of the role of state and local governing units regarding detention and correctional facilities.

Sec. 4. Section 7, chapter 316, Laws of 1977 ex. sess. as last amended by section 14, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.070 are each amended to read as follows:

All jails shall be constructed, operated, and maintained in compliance with the provisions and intent of this chapter and the rules, regulations, and standards adopted thereunder: PROVIDED, That, as limited by this section, compliance with such rules, regulations, and standards shall be pursuant to the time schedules set by the ((~~commission~~)) board for classes of facilities:

(1) The mandatory custodial care standards that are essential for the health, welfare, and security of persons confined, which are adopted pursuant to RCW 70.48.050(1)(a), shall be proposed (~~by the commission~~) to the legislature no later than December 31, 1978;

(2) The physical plant standards which are adopted and approved pursuant to RCW 70.48.050(5) shall not be mandatory unless, pursuant to the provisions of RCW 70.48.110, the state fully funds the cost of implementing such standards for detention and correctional facilities: PROVIDED, That, such funds shall be subject to appropriation: PROVIDED FURTHER, That after such funds are made available, local jurisdictions shall have a period of time before such standards are mandatory that is adequate to effect any needed construction or repairs: PROVIDED FURTHER, That those provisions of RCW 70.48.060 and 70.48.110 requiring approval prior to funding and commencement of construction or remodeling shall not apply to prevent the funding of jails of governing units which have appropriated funds for substantial remodeling or construction of jails after February 16, 1974, and before June 23, 1977. Approval in such cases may be given retroactively: PROVIDED FURTHER, That the (~~commission~~) board may grant variances from the physical plant standards consistent with the intent of this chapter, and such standards shall otherwise be mandatory for purposes of this section and RCW 70.48.080 and jail facilities approved by the (~~commission~~) board shall be deemed to comply with the physical plant standards;

(3) The mandatory custodial care standards and physical plant standards as submitted (~~by the commission~~) to the legislature on December 20, 1978 are hereby approved and shall take effect after adoption (~~by the commission~~). Mandatory custodial care standards shall be complied with no later than October 1, 1979;

(4) Modifications of the standards or additional standards may be adopted by the (~~commission~~) board pursuant to chapter 34.04 RCW.

Sec. 5. Section 8, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.080 are each amended to read as follows:

All jails which do not meet the appropriate mandatory custodial care standards and physical plant standards may be required to be closed, entirely or in part, until such requirements are met, pursuant to the following procedures:

(1) In the event the (~~commission~~) board finds a jail does not comply with the appropriate mandatory custodial care and/or physical plant standards, notice shall be given to the governing unit which shall be either a notice of noncompliance, a notice of conditional compliance for the continued operation of the jail under such restrictions as the (~~commission~~) board determines to be appropriate, or a notice of full or partial closure.

(2) Such notices shall specify the manner in which the jail does not comply with the standards. In issuing such notices consideration shall be

given to the magnitude and seriousness of the deficiencies and their potential effect on the health and safety of jail inmates, the cost of correction, and other information deemed relevant by the ((commission)) board.

(3) (a) If the ((commission)) board issues a notice of noncompliance, it shall specify in the notice the time limits within which the standards are to be met.

(b) If the ((commission)) board determines that there will be compliance with the standards provided that certain conditions or restrictions which the ((commission)) board determines to be appropriate are applied, the ((commission)) board may issue a notice of conditional compliance setting out the conditions and restrictions which the ((commission)) board determines to be appropriate. A certificate of conditional compliance may be issued thereon.

(c) In those cases where the nature and extent of the deficiencies are such that a notice of immediate full or partial closure is deemed necessary by the ((commission)) board in order to preserve the health and safety of persons in the jail, a notice of immediate full or partial closure may be issued by the ((commission)) board.

(4) Within thirty days after the date of receipt of a notice of noncompliance, a notice of conditional compliance, or a notice of full or partial closure, the appropriate governing unit may request a review thereof by the ((commission)) board which review shall be heard not more than forty-five days following such request unless such period is extended not more than another forty-five days by order of the ((commission)) board. All reviews conducted under this section shall be deemed to be "contested cases" within the meaning of chapter 34.04 RCW.

The ((commission)) board shall hear and decide the review, and the decision of the ((commission)) board may be appealed to the superior court as provided in chapter 34.04 RCW.

(5) If a notice of full or partial closure is issued and upheld, or if a notice of conditional compliance is issued and the conditions or restrictions are not complied with, or if a notice of noncompliance is issued and upheld and compliance is not satisfactorily accomplished within the time prescribed in the notice, the attorney general, upon request and on behalf of the ((commission)) board, shall apply to the superior court of the county in which the jail is located for an order of closure of all or part of the jail and the court shall have authority to issue such order of closure or prescribe other appropriate relief.

(6) In the event an order of closure is issued by the superior court, all confined persons in custody in the jail or portions thereof ordered closed shall be transferred, provided sufficient space is available, to a suitable, available jail, and the transferring governing unit shall pay for the costs of board, room, program, and administration of such transferred persons, pursuant to the rate for such costs established by the governing unit accepting

such confined persons. If a transferring governing unit disputes the rates established by the governing unit accepting, the ((commission)) board shall set the rates.

Sec. 6. Section 9, chapter 316, Laws of 1977 ex. sess. as amended by section 15, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.090 are each amended to read as follows:

(1) Contracts for jail services may be made between a county and city located within the boundaries of a county, and among counties. The contracts shall: Be in writing, give one governing unit the responsibility for the operation of the jails, specify the responsibilities of each governing unit involved, and include the applicable charges for custody of the prisoners as well as the basis for adjustments in the charges. The contracts may be terminated only by ninety days written notice to the governing units involved and to the ((commission)) board. The notice shall state the grounds for termination and the specific plans for accommodating the affected jail population.

(2) The contract authorized in subsection (1) of this section shall be for a minimum term of ten years when state funds are provided to construct or remodel a jail in one governing unit that will be used to house prisoners of other governing units. The contract may not be terminated prior to the end of the term without the ((commission's)) board's approval. If the contract is terminated, or upon the expiration and nonrenewal of the contract, the governing unit whose jail facility was built or remodeled to hold the prisoners of other governing units shall pay to the state treasurer the amount set by the ((commission)) board when it authorized disbursement of state funds for the remodeling or construction under RCW 70.48.120. This amount shall be deposited in the local jail improvement and construction account and shall fairly represent the construction costs incurred in order to house prisoners from other governing units. The ((commission)) board may pay the funds to the governing units which had previously contracted for jail services under rules which the ((commission)) board may adopt. The acceptance of state funds for constructing or remodeling consolidated jail facilities constitutes agreement to the proportionate amounts set by the ((commission)) board. Notice of the proportionate amounts shall be given to all governing units involved.

(3) A city or county primarily responsible for the operation of a jail or jails may create a department of corrections to be in charge of such jail and of all persons confined therein by law, subject to the authority of the governing unit. If such department is created, it shall have charge of jails and persons confined therein. If no such department of corrections is created, the chief law enforcement officer of the city or county primarily responsible for the operation of said jail shall have charge of the jail and of all persons confined therein. A department of corrections or the chief law enforcement officer shall operate a jail in conformance with the rules and regulations

adopted by the ((commission)) board and any rules, regulations, or ordinances adopted by the governing unit.

Sec. 7. Section 11, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.110 are each amended to read as follows:

Upon obtaining approval for the substantial remodeling or construction of a jail pursuant to RCW 70.48.060 and biennial appropriation of the legislature, a governing unit shall receive full funding from the state for the costs of the necessary new construction or improvements to or remodeling of existing detention or correctional facilities necessary to comply with the standards established pursuant to this chapter. The ((commission)) board shall biennially establish for each application the level of costs necessary to comply with the physical plant standards and shall authorize payment by the state treasurer of the designated amount from the local jail improvement and construction account created in RCW 70.48.120 to the eligible governing unit in accordance with procedures established by the ((commission)) board.

Sec. 8. Section 12, chapter 316, Laws of 1977 ex. sess. as amended by section 2, chapter 276, Laws of 1981 and RCW 70.48.120 are each amended to read as follows:

There is hereby established in the state treasury a fund to be known as the local jail improvement and construction account in which shall be deposited such sums as are appropriated by law for the purpose of providing funds to units of local government for new construction and the substantial remodeling of detention and correctional facilities so as to obtain compliance with the physical plant standards for such facilities. Funds in the local jail improvement and construction account shall be invested in the same manner as other funds in other accounts within the state treasury, and such earnings shall accrue to the local jail improvement and construction account. Funds shall be remitted to the governing units in a reasonably timely fashion to meet their contractual obligations. Funds in this account shall be disbursed by the state treasurer to units of local government, subject to biennial legislative appropriation, at the direction of the ((commission)) board.

Sec. 9. Section 13, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.130 are each amended to read as follows:

Payment for emergency or necessary health care shall be by the governing unit, except that the department of social and health services shall reimburse the governing unit for the cost thereof if the confined person requires treatment for which such person is eligible under the ((department's)) department of social and health services' public assistance medical program.

The governing unit may obtain reimbursement from the confined person for the cost of emergency and other health care to the extent that such

person is reasonably able to pay for such care, including reimbursement from any insurance program or from other medical benefit programs available to such person. To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for financial assistance from the department or from a private source, the governing unit may obtain reimbursement for the cost of such services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail: PROVIDED, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility.

There shall be no right of reimbursement to the governing unit from units of government whose law enforcement officers initiated the charges for which a person is being held in the jail for care provided after the charges are disposed of by sentencing or otherwise, unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

This section is not intended to limit or change any existing right of any party, governing unit, or unit of government against the person receiving the care for the cost of the care provided or paid for.

Under no circumstance shall necessary medical services be denied or delayed pending a determination of financial responsibility.

Sec. 10. Section 16, chapter 316, Laws of 1977 ex. sess. as amended by section 3, chapter 276, Laws of 1981 and RCW 70.48.160 are each amended to read as follows:

Having received approval pursuant to RCW 70.48.060, a governing unit shall not be eligible for further funding for physical plant standards for a period of ten years from the date of the completion of the approved project. A jail shall not be closed for noncompliance to physical plant standards within this same ten year period. This section does not apply if:

(1) The ~~((commission))~~ board or its successor elects to fund phased components of a jail project for which a governing unit has applied. In that instance, initially funded components do not constitute full funding within the meaning of RCW 70.48.060(1) and 70.48.070(2) and the ~~((commission))~~ board may fund subsequent phases of the jail project;

(2) There is destruction of the facility because of an act of God or the result of a negligent and/or criminal act.

Sec. 11. Section 10, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.200 are each amended to read as follows:

(1) In determining the capacity of a planned jail facility for purposes of funding under this chapter, the ~~((commission))~~ board shall consider all relevant information, including data supplied to the ~~((commission))~~ board by the office of financial management with regard to the governing unit's population projections, current incarceration rates as applied to population

projections by age group, and peaking factors not to exceed 1.29 standard deviations above the mean average daily population.

(2) The number of square feet allowed per bed shall generally be consistent for facilities of similar size and classification within either major urban, medium urban, or rural counties.

(3) Funds shall be allocated to governing units based on authorized beds and square feet as determined by the ((commission)) board under this chapter and the rules adopted pursuant thereto.

(4) Total dollars allocated to a governing unit for new construction or renovation shall be the lesser of the amount specified in an accepted bid, the amount computed in subsection (3) of this section, or the budget request submitted to the ((commission)) board by the governing unit.

(5) If a governing unit determines the assumptions specified in subsection (1) of this section are to be exceeded, then the funding responsibility in excess of amount determined by the ((commission)) board will be that of the governing unit.

(6) The office of financial management shall assist governing units in obtaining whatever federal grants and aid might be available for jail construction and renovation. The amount of such grants or aid which might be obtained shall be deducted from the moneys which would otherwise be granted to the governing units from the funds from the sale of bonds authorized by RCW 70.48.260.

(7) Jails which are constructed and/or renovated with funds provided pursuant to this chapter shall not be considered state buildings for the purposes of RCW 43.17.200.

Sec. 12. Section 2, chapter 232, Laws of 1979 ex. sess. as amended by section 1, chapter 143, Laws of 1980 and RCW 70.48.260 are each amended to read as follows:

For the purpose of providing funds for the planning, acquisition, construction, and improvement of jail buildings and necessary supporting facilities within the state, and the ((state jail commission's)) board's operational costs related to the review of physical plant funding applications, award of grants, and construction monitoring, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred six million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto but not including acquisition or preparation of sites. These bonds shall be paid and discharged within thirty years. 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 4, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.280 are each amended to read as follows:

The proceeds from the sale of the bonds deposited in the local jail improvement and construction account of the general fund under the terms of

this chapter shall be administered by the (~~Washington state jail commission~~) board subject to legislative appropriation.

Sec. 14. Section 5, chapter 276, Laws of 1981 and RCW 70.48.330 are each amended to read as follows:

All cities or counties which accept funding for jail remodeling or new construction under this chapter shall certify to the (~~commission~~) board that the facility to be built shall, upon opening, meet all mandatory custodial care standards adopted by the (~~commission~~) board under RCW 70.48.050. The (~~commission~~) board shall not make funding under this chapter contingent on compliance of the existing jail facility with standards adopted under RCW 70.48.050.

Sec. 15. Section 6, chapter 96, Laws of 1974 ex. sess. as last amended by section 10, chapter 360, Laws of 1985 and RCW 19.27.060 are each amended to read as follows:

(1) The governing bodies of counties and cities may amend the codes enumerated in RCW 19.27.031 as they apply within their respective jurisdictions, but the amendments shall not result in a code that is less than the minimum performance standards and objectives contained in the state building code. No amendment to a code enumerated in RCW 19.27.031 that affects single family or multifamily residential buildings shall be effective unless the amendment is approved by the building code council under RCW 19.27.074(1)(b). Any county or city amendment to a code enumerated in RCW 19.27.031 which is approved under RCW 19.27.074(1)(b) shall continue to be effective after any action is taken under RCW 19.27.074(1)(a) without necessity of reapproval under RCW 19.27.074(1)(b) unless the amendment is declared null and void by the council at the time any action is taken under RCW 19.27.074(1)(a) because such action in any way altered the impact of the amendment.

(2) Except as permitted or provided otherwise under this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any governmental subdivision or unit of local government.

(3) The governing body of each county or city may limit the application of any portion of the state building code to exclude specified classes or types of buildings or structures according to use other than single family or multifamily residential buildings: PROVIDED, That in no event shall fruits or vegetables of the tree or vine stored in buildings or warehouses constitute combustible stock for the purposes of application of the uniform fire code.

(4) The provisions of this chapter shall not apply to any building four or more stories high with a B occupancy as defined by the uniform building code, 1982 edition, and with a city fire insurance rating of 1, 2, or 3 as defined by a recognized fire rating bureau or organization.

(5) No provision of the uniform fire code concerning roadways shall be part of the state building code: PROVIDED, That this subsection shall not

limit the authority of a county or city to adopt street, road, or access standards.

(6) The provisions of the state building code are preempted by any physical standards adopted by the ~~((state jail commission))~~ corrections standards board under RCW 70.48.050 when the code provisions relating to the installation or use of sprinklers in the cells conflict with the standards and the secure and humane operation of jails.

Sec. 16. Section 2, chapter 131, Laws of 1981 as amended by section 1, chapter 63, Laws of 1983 1st ex. sess. and RCW 70.48A.020 are each amended to read as follows:

For the purpose of providing funds for the planning, acquisition, construction, and improvement of jail buildings and necessary supporting facilities within the state, and the ~~((state jail commission's))~~ corrections standards board's operational costs related to the review of physical plant funding applications, award of grants, and construction monitoring, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred forty-four million three hundred thousand dollars, or so much thereof as may be required, to finance the improvements defined in RCW 70.48A.010 through 70.48A.080 and all costs incidental thereto, including administration, but not including acquisition or preparation of sites. Appropriations for administration shall be determined by the legislature. No bonds authorized by this section may be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold: PROVIDED, That the reappropriation of previously authorized bond moneys and this new appropriation shall constitute full funding of each approved project within the meaning of RCW 70.48.070 and 70.48.110.

Sec. 17. Section 4, chapter 131, Laws of 1981 and RCW 70.48A.040 are each amended to read as follows:

The proceeds from the sale of the bonds deposited in the local jail improvement and construction account in the general fund under the terms of RCW 70.48A.010 through 70.48A.080 shall be administered by the ~~((Washington state jail commission))~~ corrections standards board subject to legislative appropriation.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 316, Laws of 1977 ex. sess., section 12, chapter 232, Laws of 1979 ex. sess. and RCW 70.48.030;

(2) Section 4, chapter 316, Laws of 1977 ex. sess. and RCW 70.48-.040; and

(3) Section 15, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.150.

Passed the Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 119

[Senate Bill No. 4446]

FIRE HYDRANTS

AN ACT Relating to city and county regulation of fire hydrants; and adding a new section to chapter 80.28 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 80.28 RCW to read as follows:

A city, town or county may, by ordinance or resolution, require a water company to maintain fire hydrants in the area served by the water company. The utilities and transportation commission has no authority to waive this obligation.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 120

[Senate Bill No. 4450]

ELECTIONS—BALLOTS—DECLARATIONS OF CANDIDACY

AN ACT Relating to elections; amending RCW 29.30.060, 29.30.350, and 29.30.450; and adding new sections to chapter 29.18 RCW.

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

NEW SECTION. Sec. 1. The names of all candidates for partisan office, for the office of superintendent of public instruction, and for all judicial offices except district court judge shall be rotated in each precinct in the manner specified by RCW 29.30.040, 29.30.340, and 29.30.440. The order of names of candidates for such offices on sample ballots and on absentee ballots in primaries shall be determined in the following manner:

(1) After the close of business on the last day for candidates to file for office, the officer with whom declarations of candidacy are filed shall, from among those filings made in person and by mail in accordance with section 2(2) of this act, determine by lot the order in which the names of those

candidates shall appear on the sample and absentee ballots under the appropriate office heading. The determination shall be done publicly, and may be witnessed by the media and by any candidate desiring to do so.

(2) For the purposes of this section and section 2 of this act, "filing officer" means the officer with whom declarations of candidacy for an office must be filed.

NEW SECTION. Sec. 2. Any candidate may mail his or her declaration of candidacy for an office to the filing officer. Such declarations of candidacy shall be processed by the filing officer in the following manner:

(1) Any declaration received by the filing officer by mail before the tenth business day immediately preceding the first day for candidates to file for office shall be returned to the candidate submitting it, together with a notification that the declaration of candidacy was received too early to be processed. The candidate shall then be permitted to resubmit his or her declaration of candidacy during the filing period.

(2) Any properly executed declaration of candidacy received by mail on or after the tenth business day immediately preceding the first day for candidates to file for office and before the close of business on the last day of the filing period shall be included with filings made in person during the filing period. In partisan and judicial elections other than for district court judge, the filing officer shall determine by lot the order in which the names of those candidates shall appear upon sample and absentee primary ballots.

(3) Any declaration of candidacy received by the filing officer after the close of business on the last day for candidates to file for office shall be rejected and returned to the candidate attempting to file it.

Sec. 3. Section 29.30.060, chapter 9, Laws of 1965 as amended by section 55, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.060 are each amended to read as follows:

In counties or portions of counties using paper ballots, on or before the fifteenth day before a primary or an election, the county auditor shall prepare a sample paper ballot which he shall display in a conspicuous place in his office for public inspection. Sample paper ballots shall be substantially in the same form as the official paper ballots but upon colored paper (~~(, and)~~). The names of the candidates in the primary for each office shall be arranged ((thereon)) on the sample ballot in the order provided by sections 1 and 2 of this act, and the names of candidates in the general election for each office shall be in the order in which their ((declarations of candidacy were filed)) names appear on the official ballot, as provided in RCW 29.30.081(2), except that the position of precinct committeeman shall be shown on the general election sample ballot only by a listing of the position itself, and the names of candidates therefor need not be shown.

Sec. 4. Section 37, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.350 are each amended to read as follows:

In counties or portions of counties using absentee ballots designed to be tabulated on a vote tallying system, on or before the fifteenth day before a primary or an election, the county auditor shall prepare sample ballots which he shall display in a conspicuous place in his office for public inspection. Sample ballots shall be substantially in the same form as the official ballot pages but the names of the candidates in the primary for each office shall be arranged ~~((thereon))~~ on the sample ballot in the order provided by sections 1 and 2 of this act, and the names of candidates in the general election for each office shall be arranged in the order in which their ~~((declarations of candidacy were filed))~~ names appear on the official ballot, as provided in RCW 29.30.380, except that the position of precinct committeeman shall be shown on the general election sample ballot only by a listing of the position itself, and the names of candidates therefor need not be shown.

Sec. 5. Section 46, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.450 are each amended to read as follows:

In counties or portions of counties using voting machines, on or before the fifteenth day before a primary or an election, the county auditor shall prepare a voting machine diagram which he shall display in a conspicuous place in his office for public inspection. Voting machine diagrams shall be substantially in the same form as the official ballot labels, but the names of the candidates in the primary for each office shall be arranged ~~((thereon))~~ on the diagram in the order provided by sections 1 and 2 of this act, and the names of candidates in the general election for each office shall be arranged in the order in which their ~~((declarations of candidacy were filed))~~ names appear on the official ballot labels as provided in RCW 29.30.480(2), except that the position of precinct committeeman shall be shown on the general election voting machine diagram only by a listing of the position itself, and the names of candidates therefor need not be shown. Voting machine diagrams shall also include instructions for write-in voting.

NEW SECTION. Sec. 6. Sections 1 and 2 of this act shall be added to chapter 29.18 RCW.

Passed the Senate March 4, 1986.

Passed the House February 26, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 121

[Substitute House Bill No. 1669]

BOARD OF PILOTAGE COMMISSIONERS—FINES—INVESTIGATIONS

AN ACT Relating to pilots; amending RCW 88.16.100; and prescribing penalties.

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

Sec. 1. Section 13, chapter 18, Laws of 1935 as last amended by section 36, chapter 67, Laws of 1981 and RCW 88.16.100 are each amended to read as follows:

(1) The board shall have power on its own motion or, in its discretion, upon the written request of any interested party, to investigate the performance of pilotage services subject to this chapter and to issue a fine in an amount not to exceed five thousand dollars and suspend, withhold, or revoke the license of any pilot for misconduct, incompetency, inattention to duty, intoxication, or failure to perform his duties under this chapter, or violation of any of the rules or regulations provided by the board for the government of pilots.

(2) In all instances where a pilot licensed under this chapter performs pilot services on a vessel exempt under RCW 88.16.070, the board may investigate whether the services were performed in a professional manner consistent with sound maritime practices. If the board finds that the pilotage services were performed in a negligent manner so as to endanger life, limb, or property, the board shall impose a fine of not more than five thousand dollars upon the offending pilot.

(3) When the board determines that reasonable cause exists to impose a fine or suspend, revoke, or withhold any pilot's license it shall forthwith prepare and personally serve upon such pilot a notice advising him of the board's intended action, the specific grounds therefor, and the right to request a hearing to challenge the board's action. The pilot shall have thirty days from the date on which notice is served to request a full hearing before an administrative law judge on the issue of the fine or suspension, revocation, or withholding of his pilot's license. The board's proposed fine or suspension, revocation, or withholding of a license shall become final upon the expiration of thirty days from the date notice is served, unless a hearing has been requested prior to that time. When a hearing is requested the board shall request the appointment of an administrative law judge under chapter 34.12 RCW who has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by the provisions of Title 34 RCW. All final decisions of the administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston county or by the superior court of the county in which the pilot maintains his residence or principal place of business, to which court any case with all the papers and proceedings therein shall be immediately certified by the administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after the date of any such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision. Any case so certified to the superior court shall be tried de novo and after certification of the record to said superior court the proceedings shall be had as in a civil

action. Moneys collected from fines under this section shall be deposited in the pilotage account.

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

Passed the House February 11, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 122

[Substitute House Bill No. 1762]

VESSEL PILOTS—ANNUAL LICENSE FEE—REPORTING REQUIREMENTS AND REVIEW PROCEDURES—REFUSAL OF ASSIGNMENT

AN ACT Relating to vessel pilots; amending RCW 88.16.090 and 88.16.103; and making an appropriation.

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

Sec. 1. Section 8, chapter 18, Laws of 1935 as last amended by section 1, chapter 303, Laws of 1981 and RCW 88.16.090 are each amended to read as follows:

(1) No person may pilot any vessel subject to the provisions of this chapter on waters covered by this chapter unless such a person is appointed and licensed to pilot such vessels on said waters under and pursuant to the provisions of this chapter.

(2) No person is eligible to be appointed a pilot unless such a person is a citizen of the United States, over the age of twenty-five years and under the age of seventy years and a resident of the state of Washington at the time of appointment, nor unless the pilot applicant holds as a minimum, a United States government license as a master of freight and towing vessels not more than one thousand gross tons (inspected vessel), such license to have been held by the applicant for a period of at least two years prior to taking the Washington state pilotage examination and a first class United States endorsement without restrictions on that license to pilot in the pilotage districts for which the pilot applicant desires to be licensed, nor unless the pilot applicant meets such other qualifications as may be required by the board.

(3) Pilots shall be licensed hereunder for a term of five years from and after the date of the issuance of their respective state licenses. Such licenses shall thereafter be renewed as of course, unless the board shall withhold same for good cause. Each pilot shall pay to the state treasurer an annual license fee established by the board of pilotage commissioners pursuant to

chapter 34.04 RCW, but not to exceed one thousand five hundred dollars, to be placed in the state treasury to the credit of the pilotage account. The board may assess partially active or inactive pilots a reduced fee.

(4) Pilot applicants shall be required to pass a written and oral examination administered and graded by the board which shall test such applicants on this chapter, the rules of the board, local harbor ordinances, and such other matters as may be required to compliment the United States examinations and qualifications.

(5) On and after September 21, 1977, the board shall have developed five examinations and grading sheets for the Puget Sound pilotage district, and two for each other pilotage district, for the testing and grading of pilot applicants. The examinations shall be administered to pilot applicants on a random basis and shall be updated as required to reflect changes in law, rules, policies, or procedures. The board may appoint a special independent examination committee or may contract with a firm knowledgeable and experienced in the development of professional tests for development of said examinations. Active licensed state pilots may be consulted for the general development of examinations but shall have no knowledge of the specific questions. The pilot members of the board may participate in the grading of examinations. If the board does appoint a special examination development committee it is authorized to pay the members of said committee the same compensation and travel expenses as received by members of the board. When grading examinations the board shall carefully follow the grading sheet prepared for that examination. The board shall develop a "sample examination" which would tend to indicate to an applicant the general types of questions on pilot examinations, but such sample questions shall not appear on any actual examinations. Any person who wilfully gives advance knowledge of information contained on a pilot examination is guilty of a gross misdemeanor.

(6) All pilots and applicants are subject to an annual physical examination by a physician chosen by the board. The physician shall examine the applicant's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that pilots licensed by the state are able to perform their duties.

(7) The board shall prescribe, pursuant to chapter 34.04 RCW, a number of familiarization trips, between a minimum number of twenty-five and a maximum of one hundred, which pilot applicants must make in the pilotage district for which they desire to be licensed. Familiarization trips any particular applicant must make are to be based upon the applicant's vessel handling experience.

(8) The board shall prescribe, pursuant to chapter 34.04 RCW, such reporting requirements and review procedures as may be necessary to assure

the accuracy and validity of license and service claims, and records of familiarization trips of pilot candidates. Willful misrepresentation of such required information by a pilot candidate shall result in disqualification of the candidate.

Sec. 2. Section 9, chapter 337, Laws of 1977 ex. sess. and RCW 88-16.103 are each amended to read as follows:

(1) Pilots, after completion of an assignment or assignments which are seven hours or longer in duration, shall receive a mandatory rest period of seven hours.

(2) A pilot shall refuse a pilotage assignment if ~~((said))~~ the pilot is physically or mentally fatigued or if ~~((said))~~ the pilot has a reasonable belief that the assignment cannot be carried out in a competent and safe manner. Upon refusing an assignment as herein provided a pilot shall submit a written explanation to the board within forty-eight hours. If the board finds that the pilot's written explanation is without merit, or reasonable cause did not exist for the assignment refusal, such pilot may be subject to the provisions of RCW 88.16.100 ~~((as now existing or hereafter amended))~~.

(3) The board shall quarterly review the dispatch records of pilot organizations or pilot's quarterly reports to ensure the provisions of this section are enforced. The board may prescribe rules for rest periods pursuant to chapter 34.04 RCW.

NEW SECTION. Sec. 3. There is appropriated to the board of pilotage commissioners from the pilotage account of the general fund, for the biennium ending June 30, 1987, the sum of twenty thousand dollars, or so much thereof as may be necessary. This money may be used by the board only to pay costs of investigating vessel incidents or accidents where a state-licensed pilot was involved and legal fees of the board.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 123

[Engrossed House Bill No. 1763]

STATE PATROL—VEHICLE INSPECTIONS

AN ACT Relating to motor vehicle inspection; amending RCW 46.32.010, 46.32.020, 46.32.040, 46.32.050, 46.32.060, and 46.32.070; and repealing RCW 46.32.030, 43.131.275, and 43.131.276.

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

Sec. 1. Section 46.32.010, chapter 12, Laws of 1961 as last amended by section 67, chapter 136, Laws of 1979 ex. sess. and RCW 46.32.010 are each amended to read as follows:

(1) ~~The chief of the Washington state patrol ((is hereby empowered to constitute, erect,))~~ may operate, ((and)) maintain, or designate, throughout the state of Washington, stations for the inspection of school buses and private carrier buses, with respect to vehicle equipment, drivers' qualifications, and hours of service and to set ~~((a date, at a))~~ reasonable times ~~((subsequent to the installation of such stations,))~~ when inspection of vehicles shall ~~((commence, and it shall be))~~ be performed.

(2) The inspection of private, common, and contract carriers with respect to vehicle equipment, drivers' qualifications, and hours of service shall be done in conjunction with weight enforcement under RCW 46.44.100.

(3) It is unlawful for any vehicle required to be inspected to be operated over the public highways of this state unless and until it has been approved periodically as to equipment. ~~((The chief of the Washington state patrol shall establish periods of vehicle equipment inspection. In the event of any such inspection, the same))~~

(4) Inspections shall be ((in charge of)) performed by a responsible employee of the chief of the Washington state patrol, who shall be duly authorized ~~((as a police officer))~~ and who shall have authority to secure and withhold, with written notice to the director of licensing, the certificate of license registration and license plates of any vehicle found to be defective in equipment so as to be unsafe or unfit to be operated upon the highways of this state, and it shall be unlawful for any person to operate such vehicle unless and until ~~((the same))~~ it has been placed in a condition satisfactory to pass a subsequent equipment inspection((:)). The police officer in charge of such vehicle equipment inspection ((station)) shall grant to the operator of such defective vehicle the privilege to move such vehicle to a place for repair under such restrictions as may be reasonably necessary.

(5) In the event any insignia, sticker, or other marker ~~((should be))~~ is adopted to be displayed upon vehicles in connection with the inspection of vehicle equipment, ~~((the same))~~ it shall be displayed as required by the rules ~~((and regulations))~~ of the chief of the Washington state patrol, and it is a traffic infraction for any person to mutilate, destroy, remove, or otherwise interfere with the display thereof.

(6) It is a traffic infraction for any person to refuse to have his motor vehicle examined as required by the chief of the Washington state patrol, or, after having had it examined, to refuse to place ~~((a certificate of approval, or a certificate of condemnation))~~ an insignia, sticker, or other marker, if issued, upon ((his windshield)) the vehicle, or ((to)) fraudulently to obtain ((a certificate of approval)) any such insignia, sticker, or other marker, or to refuse to place his motor vehicle in proper condition after having had ((the same)) it examined, or ((to;)) in any manner, to fail to conform to the provisions of this chapter.

(7) It is a traffic infraction for any person to perform false or improvised repairs, or repairs in any manner not in accordance with acceptable and customary repair practices, upon a motor vehicle.

Sec. 2. Section 46.32.020, chapter 12, Laws of 1961 and RCW 46.32-.020 are each amended to read as follows:

The chief of the Washington state patrol (~~(is empowered to provide)~~) may adopt reasonable rules (~~(and regulations)~~) regarding types of vehicles to be inspected, inspection criteria, times for the inspection of vehicle equipment, and all other matters with respect to the conduct of vehicle equipment inspections (~~(stations)~~).

~~((In the event that any municipality or other political subdivision of this state has installed and placed in operation any station for the inspection of vehicle equipment, the operation of such inspection station shall be in strict conformity with rules, regulations, procedure and standards of inspection prescribed by the chief of the Washington state patrol. The operation of such municipally owned vehicle inspection station shall be under the direction and supervision of the chief of the Washington state patrol and there shall be maintained and submitted as and when prescribed such records and reports as shall be required by the chief of the Washington state patrol.))~~

The chief of the Washington state patrol shall prepare and furnish such stickers, tags, record and report forms, stationery, and other supplies as shall be deemed necessary. The chief of the Washington state patrol is empowered to appoint and employ such assistants as he may consider necessary and to fix hours of employment and compensation.

Sec. 3. Section 46.32.040, chapter 12, Laws of 1961 and RCW 46.32-.040 are each amended to read as follows:

Vehicle equipment inspection shall be at such (~~(periodic)~~) intervals as (~~(shall be)~~) required by the chief of the Washington state patrol and shall be made without charge (~~(for such periodic inspection)~~).

Sec. 4. Section 46.32.050, chapter 12, Laws of 1961 as amended by section 68, chapter 136, Laws of 1979 ex. sess. and RCW 46.32.050 are each amended to read as follows:

It shall be unlawful for any person employed by the chief of the Washington state patrol (~~(or by any municipality or other political subdivision, in)~~) at any vehicle equipment inspection station, to (~~(directly or indirectly, or in any manner whatsoever;)~~) order, direct, recommend, or influence the correction of vehicle equipment defects by any person or persons whomsoever.

It shall be unlawful for any person employed by the chief of the Washington state patrol (~~(or by any municipality or other political subdivision;)~~) while in or about any vehicle equipment inspection station, to perform any repair or adjustment upon any vehicle or any equipment or appliance of any vehicle whatsoever.

It shall be unlawful for any person to solicit in any manner the repair to any vehicle or the adjustment of any equipment or appliance of any vehicle, upon the property of any vehicle equipment inspection station or upon any public highway adjacent thereto.

Violation of the provisions of this section is a traffic infraction.

Sec. 5. Section 46.32.060, chapter 12, Laws of 1961 and RCW 46.32-.060 are each amended to read as follows:

It shall be unlawful for any person to operate or move, or for any owner to cause or permit to be operated or moved upon any public highway, any vehicle or combination of vehicles, which is not at all times equipped in the manner required by this title, or the equipment of which is not in a proper condition and adjustment as required by this title or rules adopted by the chief of the Washington state patrol.

Any vehicle operating upon the public highways of this state and at any time found to be defective in equipment in such a manner that it may be considered unsafe shall be an unlawful vehicle and may be prevented from further operation until such equipment defect is corrected and any peace officer is empowered to impound such vehicle until the same has been placed in a condition satisfactory to vehicle inspection. The necessary cost of impounding any such unlawful vehicle and any cost for the storage and keeping thereof shall be paid by the owner thereof. The impounding of any such vehicle shall be in addition to any penalties for such unlawful operation.

The provisions of this section shall not be construed to prevent the operation of any such defective vehicle to a place for correction of equipment defect in the manner directed by any peace officer or representative of the state commission on equipment.

Sec. 6. Section 46.32.070, chapter 12, Laws of 1961 and RCW 46.32-.070 are each amended to read as follows:

~~((In the event that any vehicle shall))~~ If a vehicle required to be inspected becomes damaged or deteriorated in such a manner that such vehicle ~~((shall have))~~ has become unsafe for operation upon the public highways of this state, it ~~((shall be))~~ is unlawful for the owner or operator thereof to cause such vehicle to be operated upon a public highway upon its return to service unless such owner or operator ~~((shall have presented))~~ presents such vehicle for inspection of equipment within twenty-four hours after its return to service.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

- (1) Section 46.32.030, chapter 12, Laws of 1961 and RCW 46.32.030;
- (2) Section 11, chapter 197, Laws of 1983 and RCW 43.131.275; and

(3) Section 37, chapter 197, Laws of 1983 and RCW 43.131.276.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 124

[Engrossed House Bill No. 1463]

CONTROLLED SUBSTANCES—REVISIONS—PARENTS HAVE CAUSE OF ACTION WHEN CONTROLLED SUBSTANCES ARE TRANSFERRED TO MINORS

AN ACT Relating to controlled substances; amending RCW 69.50.101, 69.50.201, 69.50.204, 69.50.206, 69.50.208, 69.50.210, 69.50.212, 69.50.304, and 69.50.505; and creating a new section.

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

Sec. 1. Section 69.50.101, chapter 308, Laws of 1971 ex. sess. as last amended by section 18, chapter 153, Laws of 1984 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) (~~"Bureau" means the Bureau of Narcotics and Dangerous Drugs.~~) "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) "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.

(h) "Dispenser" means a practitioner who dispenses.

(i) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(j) "Distributor" means a person who distributes.

(k) "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.

(l) "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) "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) "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) "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) "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) "Opium poppy" means the plant of the genus *Papaver* L., except its seeds, capable of producing an opiate.

(r) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(s) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(t) "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 chiropractist 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 which shares a common border with the state of Washington.

(u) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(v) "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) "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) "Board" means the state board of pharmacy.

(y) "Executive officer" means the executive officer of the state board of pharmacy.

Sec. 2. Section 69.50.201, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.201 are each amended to read as follows:

(a) The state board of pharmacy shall administer 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 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 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 ~~((bureau))~~ 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. 3. Section 69.50.204, chapter 308, Laws of 1971 ex. sess. as amended by section 1, chapter 138, Laws of 1980 and RCW 69.50.204 are each amended to read as follows:

(a) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Alfentanil;
- (3) Allylprodine;
- ~~((3))~~ (4) Alphacetylmethadol;
- ~~((4))~~ (5) Alphameprodine;
- ~~((5))~~ (6) Alphamethadol;
- ~~((6))~~ (7) Alpha-methylfentanyl (N-[1-alpha-methyl-beta-phenyl] ethyl-4-piperidyl) propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine;
- (8) Benzethidine;
- ~~((7))~~ (9) Betacetylmethadol;
- ~~((8))~~ (10) Betameprodine;
- ~~((9))~~ (11) Betamethadol;
- ~~((10))~~ (12) Betaprodine;
- ~~((11))~~ (13) Clonitazene;

- ~~((12))~~ (14) Dextromoramide;
- ~~((13))~~ (15) Diampromide;
- ~~((14))~~ (16) Diethylthiambutene;
- ~~((15))~~ (17) DifenoXin;
- ~~((16))~~ (18) Dimenoxadol;
- ~~((17))~~ (19) Dimepheptanol;
- ~~((18))~~ (20) Dimethylthiambutene;
- ~~((19))~~ (21) Dioxaphetyl butyrate;
- ~~((20))~~ (22) Dipipanone;
- ~~((21))~~ (23) Ethylmethylthiambutene;
- ~~((22))~~ (24) Etonitazene;
- ~~((23))~~ (25) EtoXeridine;
- ~~((24))~~ (26) Furethidine;
- ~~((25))~~ (27) Hydroxypethidine;
- ~~((26))~~ (28) Ketobemidone;
- ~~((27))~~ (29) Levomoramide;
- ~~((28))~~ (30) Levophenacylmorphane;
- ~~((29))~~ (31) Morpheridine;
- ~~((30))~~ (32) Noracymethadol;
- ~~((31))~~ (33) Norlevorphanol;
- ~~((32))~~ (34) Normethadone;
- ~~((33))~~ (35) Norpipanone;
- ~~((34))~~ (36) Phenadoxone;
- ~~((35))~~ (37) Phenampromide;
- ~~((36))~~ (38) Phenomorphan;
- ~~((37))~~ (39) Phenoperidine;
- ~~((38))~~ (40) Piritramide;
- ~~((39))~~ (41) Propheptazine;
- ~~((40))~~ (42) Properidine;
- ~~((41))~~ (43) Propiram;
- ~~((42))~~ (44) Racemoramide;
- ~~((43))~~ (45) Tilidine;
- (46) Trimeperidine.

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;

- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphinol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) (~~Phoclodine~~) Pholcodine;
- (23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of (~~their~~) its salts, isomers, and salts of isomers, whenever the existence of (~~these~~) such salts, isomers, and salts of isomers is possible within the specific chemical designation (For purposes of paragraph (d) of this section, only, the term "isomer" includes the optical, position, and geometric isomers.):

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;
- (4) (~~4-bromo-2,5-dimethoxy-amphetamine~~;
- (5) ~~2,5-dimethoxyamphetamine~~;
- (6) ~~4-methoxyamphetamine~~;
- (7) ~~4-methyl-2,5-dimethoxyamphetamine~~;
- (8) ~~Bufotenine~~;
- (9) ~~Diethyltryptamine~~;
- (10) ~~Dimethyltryptamine~~;
- (11) ~~Ibogaine~~;) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA;
- (5) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;
- (6) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;
- (7) 4-methyl-2,5-dimethoxyamphetamine: Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; "STP";

(8) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(9) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

(10) Dimethyltryptamine: Some trade or other names: DMT;

(11) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9methano-5H-pyndo (1',2'1,2) azepino (5,4-b) indole; Tabernanthe iboga;

(12) Lysergic acid diethylamide;

(13) Marihuana;

(14) Mescaline;

(15) Parahexyl-7374; some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(16) Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule I(c)(12));

~~((+6))~~ (17) N-ethyl-3-piperidyl benzilate;

~~((+7))~~ (18) N-methyl-3-piperidyl benzilate;

~~((+8))~~ (19) Psilocybin;

~~((+9))~~ (20) Psilocyn;

~~((20))~~ (21) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, specifically, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) Delta 1 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(ii) Delta 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(iii) Delta 3.4 - cis - or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered, are all included.)

~~((21))~~ Ethylamine analog of phencyclidine;

~~((22))~~ Pyrrolidine analog of phencyclidine;

~~((23))~~ Thiopene analog of phencyclidine.))

(22) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(23) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(24) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of mecloqualone having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Mecloqualone;

(2) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethyline;

(2) N-ethylamphetamine;

(3) 3-methylfentanyl (N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide), its optical and geometric isomers, salts and salts of isomers;

(4) 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

(5) 1-methyl-4-phenyl-4-propionyloxy-piperidine (MPPP), its optical isomers, salts, and salts of isomers;

(6) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (PEPAP), its optical isomers, salts and salts of isomers.

Sec. 4. Section 69.50.206, chapter 308, Laws of 1971 ex. sess. as amended by section 2, chapter 138, Laws of 1980 and RCW 69.50.206 are each amended to read as follows:

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine,

naloxone, and naltrexone, and their respective salts, but including the following:

- (i) Raw opium;
- (ii) Opium extracts;
- (iii) Opium fluid extracts;
- (iv) Powdered opium;
- (v) Granulated opium;
- (vi) Tincture of opium;
- (vii) Codeine;
- (viii) Ethylmorphine;
- (ix) Etorphine hydrochloride;
- (x) Hydrocodone;
- (xi) Hydromorphone;
- (xii) Metopon;
- (xiii) Morphine;
- (xiv) Oxycodone;
- (xv) Oxymorphone; and
- (xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, 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, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Methylbenzoyllecgonine (cocaine — its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy.)

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including ~~((their))~~ its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of ~~((these))~~ such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Bulk dextropropoxyphene (nondosage forms);
- (5) Dihydrocodeine;
- ~~((5))~~ (6) Diphenoxylate;

- ((6)) (7) Fentanyl;
 ((7)) (8) Isomethadone;
 ((8)) (9) Levomethorphan;
 ((9)) (10) Levorphanol;
 ((10)) (11) Metazocine;
 ((11)) (12) Methadone;
 ((12)) (13) Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
 ((13)) (14) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
 ((14)) (15) Pethidine (meperidene);
 ((15)) (16) Pethidine—Intermediate—A, 4-cyano-1-methyl-4-phenylpiperidine;
 ((16)) (17) Pethidine—Intermediate—B, ethyl-4-phenylpiperidine-4-carboxylate;
 ((17)) (18) Pethidine—Intermediate—C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
 ((18)) (19) Phenazocine;
 ((19)) (20) Piminodine;
 ((20)) (21) Racemethorphan;
 ((21)) (22) Racemorphan;
 (23) Sufentanil.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, its salts, isomers, and salts of its isomers;
- (3) Phenmetrazine and its salts;
- (4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) ((Methaqualone;
3)) Pentobarbital;
- ((4)) (3) Phencyclidine;
- ((5) Phencyclidine immediate precursors;
- (i) 1-phenylcyclohexylamine;
- (ii) 1-piperidinocyclohexanecarbonitrile (PCC);

~~(6))~~ (4) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(2) Phenylacetone: Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone.

(3) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

Sec. 5. Section 69.50.208, chapter 308, Laws of 1971 ex. sess. as amended by section 3, chapter 138, Laws of 1980 and RCW 69.50.208 are each amended to read as follows:

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations are referred to as excepted compounds in Schedule III as published in 21 CFR 1308.13(b)(1) as of April 1, (~~(1979))~~ 1985, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) (~~Mazindol~~;

~~(6))~~ Phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) Any suppository dosage form containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(4) Chlorhexadol;

(5) Glutethimide;

(6) Lysergic acid;

(7) Lysergic acid amide;

(8) Methyprylon;

(9) Sulfondiethylmethane;

(10) Sulfonethylmethane;

(11) Sulfonmethane.

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraph (e) of this section:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

Sec. 6. Section 69.50.210, chapter 308, Laws of 1971 ex. sess. as last amended by section 2, chapter 147, Laws of 1981 and RCW 69.50.210 are each amended to read as follows:

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule IV.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation (~~which contains any difenoxin, or its salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows: Not more than 1 milligram and not less than 25 micrograms of atropine sulfate per dosage unit~~) containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-c-dimethylamino-1,2-diphenyl-3-methyl-2 propionoxybutane).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;

(2) Barbital;

~~((2))~~ (3) Chloral betaine;

~~((3))~~ (4) Chloral hydrate;

~~((4))~~ (5) Chlordiazepoxide;

~~((5))~~ (6) Clonazepam;

~~((6))~~ (7) Clorazepate;

~~((7))~~ (8) Diazepam;

~~((8))~~ (9) Ethchlorvynol;

~~((9))~~ (10) Ethinamate;

~~((10))~~ (11) Flurazepam;

~~((11) Lorazepam)~~ (12) Halazepam;

(13) Lorazepam;

~~((12))~~ (14) Mebutamate;

~~((13))~~ (15) Meprobamate;

~~((14))~~ (16) Methohexital;

- ~~((15))~~ (17) Methylphenobarbital (mephobarbital);
- ~~((16))~~ (18) Oxazepam;
- ~~((17))~~ (19) Paraldehyde;
- ~~((18))~~ (20) Petrichloral;
- ~~((19))~~ (21) Phenobarbital;
- ~~((20))~~ (22) Prazepam;
- (23) Temazepam;
- (24) Triazolam.

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of ~~((fenfluramine))~~ the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

(1) Fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) ~~((Phentermine))~~ Mazindol;
- (3) Pemoline (including organometallic complexes and chelates thereof);
- (4) Phentermine;
- (5) Pipradrol;
- (6) SPA ((-)-1-dimethylamino-1, 2-dephenylethane.

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

- (1) ~~((Dextropropoxphene (alpha - (+) - 4 - dimethylamino-1, 2-diphenyl - 3 - methyl - 2 - propionoxybutane);~~
- ~~((2))~~ Pentazocine.

Sec. 7. Section 69.50.212, chapter 308, Laws of 1971 ex. sess. as amended by section 5, chapter 138, Laws of 1980 and RCW 69.50.212 are each amended to read as follows:

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkalioid, in limited quantities as set forth in this section, which shall include one

or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(c) (~~Loperamide~~) Buprenorphine.

Sec. 8. Section 69.50.304, chapter 308, Laws of 1971 ex. sess. 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; (~~or~~)

(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 shall promptly notify the (~~Bureau~~) drug enforcement administration of all orders suspending or revoking registration and all forfeitures of controlled substances.

Sec. 9. Section 15, chapter 2, Laws of 1983 as amended by section 333, chapter 258, Laws of 1984 and RCW 69.50.505 are each amended to read as follows:

(a) The following are subject to seizure and forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, ~~((to transport, or))~~ in any manner to facilitate the ~~((transportation, for the purpose of))~~ sale ~~((or receipt))~~ of property described in paragraphs (1) or (2), but:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(iii) ~~((A conveyance is not subject to forfeiture for a violation of RCW 69.50.401(d);~~

~~((iv)))~~ A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

~~((v)))~~ (iv) When the owner of a conveyance has been arrested under this chapter the conveyance may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter;

(6) All drug paraphernalia; and

(7) All moneys, negotiable instruments, securities, or other intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter: PROVIDED, That no property may be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or

omission which that owner establishes was committed or omitted without the owner's knowledge or consent.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(d) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) or (a)(7) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(e) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) or (a)(7) of this section within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. A hearing before the seizing agency and any appeal therefrom shall

be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of items specified in subsection (a)(4) or (a)(7) of this section. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(4) or (a)(7) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds and all moneys forfeited under this title shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Fifty percent of the money remaining after payment of such expenses shall be deposited in the general fund of the state, county, and/or city of the seizing law enforcement agency, and fifty percent shall be remitted to the state treasurer for deposit in the public safety and education account established in RCW 43.08.250;

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to the ((Bureau)) drug enforcement administration for disposition.

(g) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(i) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon

which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

NEW SECTION. Sec. 10. The parent or legal guardian of any minor to whom a controlled substance, as defined in RCW 69.50.101, is sold or transferred, shall have a cause of action against the person who sold or transferred the controlled substance for all damages to the minor or his or her parent or legal guardian caused by such sale or transfer. Damages shall include: (a) Actual damages, including the cost for treatment or rehabilitation of the minor child's drug dependency, (b) forfeiture to the parent or legal guardian of the cash value of any proceeds received from such sale or transfer of a controlled substance, and (c) reasonable attorney fees.

This section shall not apply to a practitioner, as defined in RCW 69.50.101(t), who sells or transfers a controlled substance to a minor pursuant to a valid prescription or order.

Passed the House March 9, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 125

[Senate Bill No. 4681]

WORK/TRAINING RELEASE FACILITIES—FUNDS

AN ACT Relating to inmates assigned to work/training release facilities; and amending RCW 9.95.310, 9.95.320, 9.95.340, 9.95.350, 9.95.360, 72.65.090, and 72.65.100.

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

Sec. 1. Section 2, chapter 217, Laws of 1961 as amended by section 1, chapter 31, Laws of 1971 ex. sess. and RCW 9.95.310 are each amended to read as follows:

The purpose of RCW 9.95.310 through 9.95.370 is to provide necessary assistance, other than assistance which is authorized to be provided under the vocational rehabilitation laws, Title 28A RCW, under the public assistance laws, Title 74 RCW or the department of employment security or other state agency, for parolees, inmates assigned to work/training release facilities, discharged prisoners and persons convicted of a felony and granted probation in need and whose capacity to earn a living under these circumstances is impaired; and to help such persons attain self-care and/or self-support for rehabilitation and restoration to independence as useful citizens as rapidly as possible thereby reducing the number of returnees to the institutions of this state to the benefit of such person and society as a whole.

Sec. 2. Section 3, chapter 217, Laws of 1961 as last amended by section 45, chapter 136, Laws of 1981 and RCW 9.95.320 are each amended to read as follows:

The secretary of corrections or his or her designee may provide to any parolee, inmate assigned to a work/training release facility, discharged prisoner and persons convicted of a felony and granted probation in need and without necessary means, from any funds legally available therefor, such reasonable sums as he deems necessary for the subsistence of such person and his family until such person has become gainfully employed. Such aid may be made under such terms and conditions, and through local parole or probation officers if necessary, as the secretary of corrections or his designee may require and shall be supplementary to any moneys which may be provided under public assistance or from any other source.

Sec. 3. Section 5, chapter 217, Laws of 1961 as last amended by section 47, chapter 136, Laws of 1981 and RCW 9.95.340 are each amended to read as follows:

Any funds in the hands of the department of corrections, or which may come into its hands, which belong to discharged prisoners, inmates assigned to work/training release facilities, parolees or persons convicted of a felony and granted probation who absconded, or whose whereabouts are unknown, shall be deposited in the ~~((parolee and probationer))~~ community services revolving fund. Said funds shall be used to defray the expenses of clothing and other necessities and for transporting discharged prisoners, inmates assigned to work/training release facilities, parolees and persons convicted of a felony and granted probation who are without means to secure the same. All payments disbursed from these funds shall be repaid, whenever possible, by discharged prisoners, inmates assigned to work/training release facilities, parolees and persons convicted of a felony and granted probation for whose benefit they are made. Whenever any money belonging to ~~((discharged prisoners, parolees and persons convicted of a felony and granted probation))~~ such persons is so paid into the revolving fund, it shall be repaid to them in accordance with law if a claim therefor is filed with the department of corrections within five years of deposit into said fund and upon a clear showing of a legal right of such claimant to such money.

Sec. 4. Section 6, chapter 217, Laws of 1961 as last amended by section 48, chapter 136, Laws of 1981 and RCW 9.95.350 are each amended to read as follows:

All money or other property paid or delivered to a probation or parole officer or employee of the department of corrections by or for the benefit of any discharged prisoner, inmate assigned to a work/training release facility, parolee or persons convicted of a felony and granted probation shall be immediately transmitted to the department of corrections and it shall enter the same upon its books to his credit. Such money or other property shall be used only under the direction of the department of corrections.

If such person absconds, the money shall be deposited in the revolving fund created by RCW 9.95.360, and any other property, if not called for within one year, shall be sold by the department of corrections and the proceeds credited to the revolving fund.

If any person, files a claim within five years after the deposit or crediting of such funds, and satisfies the department of corrections that he is entitled thereto, the department may make a finding to that effect and may make payment to the claimant in the amount to which he is entitled.

Sec. 5. Section 7, chapter 217, Laws of 1961 as last amended by section 49, chapter 136, Laws of 1981 and RCW 9.95.360 are each amended to read as follows:

The department of corrections shall create, maintain, and administer outside the state treasury a permanent revolving fund to be known as the "~~((parolee and probationer))~~ community services revolving fund" into which shall be deposited all moneys received by it under RCW 9.95.310 through 9.95.370 and any appropriation made for the purposes of RCW 9.95.310 through 9.95.370. All expenditures from this revolving fund shall be made by check or voucher signed by the secretary of corrections or his designee. The ~~((parolee and probationer))~~ community services revolving fund shall be deposited by the department of corrections in such banks or financial institutions as it may select which shall give to the department a surety bond executed by a surety company authorized to do business in this state, or collateral eligible as security for deposit of state funds in at least the full amount of deposit.

Sec. 6. Section 9, chapter 17, Laws of 1967 and RCW 72.65.090 are each amended to read as follows:

The department may provide transportation for work release participants to the designated places of housing under the work release plan, and may supply suitable clothing and such other equipment, supplies and other necessities as may be reasonably needed for the implementation of the plans adopted for such ~~((participants))~~ participation from the community services revolving fund as established in RCW 9.95.360; PROVIDED, That costs and expenditures incurred for this purpose may be deducted by the department from the earnings of the participants and deposited in the community services revolving fund.

Sec. 7. Section 10, chapter 17, Laws of 1967 as last amended by section 112, chapter 136, Laws of 1981 and RCW 72.65.100 are each amended to read as follows:

The secretary is authorized to make rules and regulations for the administration of the provisions of this chapter to administer the work release program. In addition, the department shall:

- (1) Supervise and consult with work release participants;

(2) Locate available employment or vocational training opportunities for qualified work release participants;

(3) Effect placement of work release participants under the program;

(4) Collect, account for and make disbursement from earnings of work release participants under the provisions of this chapter, including accounting for all inmate debt in the community services revolving fund. RCW 9.95.370 applies to inmates assigned to work/training release facilities who receive assistance as provided in RCW 9.95.310, 9.95.320, 72.65.050, and 72.65.090;

(5) Promote public understanding and acceptance of the work release program.

All state agencies shall cooperate with the department in the administration of the work release program as provided by this chapter.

Passed the Senate March 9, 1986.

Passed the House March 7, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 126

[Senate Bill No. 4693]

TORT CLAIMS AGAINST THE STATE

AN ACT Relating to tort claims against the state; amending RCW 4.92.010, 4.92.020, 4.92.030, 4.92.040, 4.92.060, 4.92.070, 4.92.100, 4.92.110, 4.92.160, 4.92.170, 77.12.270, and 77.12.280; and repealing RCW 4.92.131.

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

Sec. 1. Section 1, chapter 95, Laws of 1895 as last amended by section 1, chapter 44, Laws of 1973 and RCW 4.92.010 are each amended to read as follows:

Any person or corporation having any claim against the state of Washington shall have a right of action against the state in the superior court. ~~((The plaintiff in such action shall, at the time of filing his complaint, file a surety bond executed by the plaintiff and a surety company authorized to do business in the state of Washington to the effect that such plaintiff will indemnify the state against all costs that may accrue in such action; and will pay to the clerk of said court all costs in case the plaintiff shall fail to prosecute his action or to obtain a judgment against the state: PROVIDED, That in actions for the enforcement or foreclosure of any lien upon, or to determine or quiet title to, any real property in which the state of Washington is a necessary or proper party defendant no surety bond as above provided for shall be required.))~~

The venue for such actions shall be as follows:

(1) The county of the residence or principal place of business of one or more of the plaintiffs;

- (2) The county where the cause of action arose;
- (3) The county in which the real property that is the subject of the action is situated;
- (4) The county where the action may be properly commenced by reason of the joinder of an additional defendant; or
- (5) Thurston county.

Actions shall be subject to change of venue in accordance with statute, rules of court, and the common law as the same now exist or may hereafter be amended, adopted, or altered.

Actions shall be tried in the county in which they have been commenced in the absence of a seasonable motion by or in behalf of the state to change the venue of the action.

Sec. 2. Section 2, chapter 95, Laws of 1895 as amended by section 2, chapter 216, Laws of 1927 and RCW 4.92.020 are each amended to read as follows:

Service of summons and complaint in such actions shall be served in the manner prescribed by law upon the attorney general, or by leaving the ~~((same))~~ summons and complaint in ~~((his))~~ the office of the attorney general with an assistant attorney general.

Sec. 3. Section 3, chapter 95, Laws of 1895 as amended by section 24, chapter 81, Laws of 1971 and RCW 4.92.030 are each amended to read as follows:

The attorney general or ~~((his))~~ an assistant attorney general shall appear and act as counsel for the state. The action shall proceed in all respects as other actions. Appeals may be taken to the supreme court or court of appeals of the state as in other actions or proceedings, but in case an appeal shall be taken on behalf of the state, no bond shall be required of the appellant.

Sec. 4. Section 4, chapter 95, Laws of 1895, as last amended by section 28, chapter 161, Laws of 1983 and RCW 4.92.040 are each amended to read as follows:

- (1) No execution shall issue against the state on any judgment.
- (2) Whenever a final judgment against the state ~~((shall have been))~~ is obtained in an action on a claim arising out of tortious conduct, the ~~((clerk shall make and furnish to the director of financial management a duly certified copy of said judgment and the same))~~ claim shall be paid ~~((out of))~~ from the tort claims revolving fund.
- (3) Whenever a final judgment against the state shall have been obtained in any other action, the clerk of the court shall make and furnish to the ~~((director of financial))~~ risk management office a duly certified copy of such judgment; the ~~((director of financial))~~ risk management office shall thereupon audit the amount of damages and costs therein awarded, and the

same shall be paid from appropriations specifically provided for such purposes by law.

(4) ~~((On and after September 21, 1977,))~~ Final judgments for which there are no provisions in state law for payment shall be transmitted by the risk management office to the senate and house of representatives committees on ways and means as follows:

(a) On the first day of each session of the legislature, the risk management office shall transmit judgments received and audited since the adjournment of the previous session of the legislature.

(b) During each session of legislature, the risk management office shall transmit judgments immediately upon completion of audit.

(5) All claims, other than judgments, made to the legislature against the state of Washington for money or property, shall be accompanied by a statement of the facts on which such claim is based and such evidence as the claimant intends to offer in support of the claim and shall be filed with the ~~((director of financial))~~ risk management ~~((who))~~ office, which shall retain the same as a record. All claims of ~~((five hundred))~~ two thousand dollars or less shall be approved or rejected by the ~~((director of financial))~~ risk management office, and if approved shall be paid from appropriations specifically provided for such purpose by law. Such decision, if adverse to the claimant in whole or part, shall not preclude the claimant from seeking relief from the legislature~~((: PROVIDED, That))~~. If the claimant accepts any part of his or her claim which is approved for payment by the ~~((director))~~ risk management office, such acceptance shall constitute a waiver and release of the state from any further claims relating to the damage or injury asserted in the claim so accepted. The ~~((director))~~ risk management office shall submit to the house and senate committees on ways and means ~~((and to the house committee on appropriations))~~, at the beginning of each regular session, a comprehensive list of all claims paid pursuant to this subsection during the preceding ~~((two))~~ year~~((s))~~. For all claims ~~((over five hundred dollars))~~ not approved by the risk management office, the ~~((director of financial))~~ risk management office shall recommend to the legislature whether such claims should be approved or rejected. Recommendations shall be submitted to the senate and house of representatives committees on ways and means not later than the thirtieth day of each regular session of the legislature. Claims which cannot be processed for timely submission of recommendations shall be held for submission during the following regular session of the legislature. The recommendations shall include, but not be limited to:

(a) A summary of the facts alleged in the claim, and a statement as to whether these facts can be verified by the risk management office;

(b) An estimate by the risk management office of the value of the loss or damage which was alleged to have occurred;

(c) An analysis of the legal liability, if any, of the state for the alleged loss or damage; and

(d) A summary of equitable or public policy arguments which might be helpful in resolving the claim.

(5) The legislative committees to whom such claims are referred shall make a transcript, recording, or statement of the substance of the evidence given in support of such a claim. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law.

~~((5))~~ (6) Subsections (3) ~~((and (4)))~~ through (5) of this section do not apply to judgments or claims against the state housing finance commission created under chapter 43.180 RCW.

Sec. 5. Section 1, chapter 79, Laws of 1921 as last amended by section 1, chapter 217, Laws of 1985 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, arising from ~~((his))~~ acts or omissions while performing, or in good faith purporting to perform, ~~((his))~~ official duties, such officer, employee, or volunteer may request the attorney general to authorize the defense of said action or proceeding at the expense of the state.

Sec. 6. Section 2, chapter 79, Laws of 1921 as last amended by section 2, chapter 217, Laws of 1985 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 purported to be in good faith, within the scope of ~~((his))~~ that person's official duties, 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 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.

Sec. 7. Section 3, chapter 159, Laws of 1963 as last amended by section 3, chapter 151, Laws of 1979 and RCW 4.92.100 are each amended to read as follows:

All claims against the state for damages arising out of tortious conduct shall be presented to and filed with the ~~((director of financial))~~ risk management office. All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of

the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing ~~((his))~~ the claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing ~~((him))~~ the claimant.

With respect to the content of such claims this section shall be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 8. Section 4, chapter 159, Laws of 1963 as last amended by section 4, chapter 151, Laws of 1979 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 claim has first been presented to and filed with the ~~((director of financial))~~ 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.

Sec. 9. Section 10, chapter 159, Laws of 1963 as last amended by section 3, chapter 144, Laws of 1979 ex. sess. and RCW 4.92.160 are each amended to read as follows:

Payment of claims and judgments arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency or department of state government with the exception of the ~~((director of financial))~~ risk management office, and ~~((he))~~ that office shall authorize and direct the payment of moneys only from the tort claims revolving fund whenever:

(1) The head or governing body of any agency or department of state or the designee of any such agency certifies to ~~((him))~~ the risk management office that a claim has been settled under authority of RCW 4.92.140 as herein or hereafter amended; or

(2) The clerk of court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the attorney general certifies that the judgment is final and was entered in an action on a claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the state.

Sec. 10. Section 11, chapter 159, Laws of 1963 as last amended by section 6, chapter 151, Laws of 1979 and RCW 4.92.170 are each amended to read as follows:

Liability for and payment of claims arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. is declared to be a proper

charge as part of the normal cost of operating the various agencies and departments of state government whose operations and activities give rise to the liability and a lawful charge against moneys appropriated or available to such agencies and departments.

Within any agency or department the charge shall be apportioned among such appropriated and other available moneys in the same proportion that the moneys finance the activity causing liability. Whenever the operations and activities of more than one agency or department combine to give rise to a single liability, the ~~((director of financial))~~ risk management office shall determine the comparative responsibility of each agency or department for the liability.

State agencies shall make reimbursement to the tort claims revolving fund for any payment made from it for the benefit of such agencies. The director of financial management is authorized and directed to transfer or order the transfer to the tort claims revolving fund, from moneys available or appropriated to such agencies, that sum of money which is a proper charge against them. Such amounts may be expended for the purposes for which the tort claims revolving fund was created by RCW 4.92.130 (~~as herein or hereafter amended~~) without further or additional appropriation(~~(: PROVIDED, That)~~). In any case where reimbursement would seriously disrupt or prevent substantial performance of the operations or activities of the state agency, the director of financial management may relieve the agency of all or a portion of the obligation to make reimbursement.

The ~~((director of financial))~~ risk management office shall report on request to the legislature on the status of the tort claims revolving fund, all payments made therefrom, all reimbursements made thereto, and the identity of agencies and departments of state government whose operations and activities give rise to liability(~~(, including those agencies and departments over which he does not have authority to revise allotments under chapter 43.88 RCW)~~).

The ~~((director of financial))~~ risk management office may authorize agencies, in accordance with chapter 41.05 RCW to the extent that it is applicable, to purchase insurance to protect and hold personally harmless any officer or employee of the state, or any classes of such officers or employees or for other persons performing services for the state, whether by contract or otherwise, from any action, claim, or proceeding for damages arising out of the performance of duties for, employment with, or the performance of services on behalf of the state and to hold ~~((him))~~ the officer or employee harmless from any expenses connected with the defense, settlement, or monetary judgment from such actions.

The ~~((director of financial))~~ risk management office shall adopt rules ~~((and regulations))~~ governing the procedures to be followed in making payment from the tort claims revolving fund(~~(:)~~). The office of financial management shall adopt rules governing the procedures to be followed in

reimbursing the tort claims revolving fund and in relieving an agency of its obligation to reimburse the tort claims revolving fund.

Sec. 11. Section 77.12.270, chapter 36, Laws of 1955 as last amended by section 45, chapter 78, Laws of 1980 and RCW 77.12.270 are each amended to read as follows:

The commission may compromise, adjust, settle, and pay claims for damages caused by deer or elk in accordance with RCW 77.12.280 through 77.12.300. Payments for claims shall not exceed ~~((one))~~ two thousand dollars. The payment of a claim by the commission constitutes full and final payment for the claim.

Sec. 12. Section 77.12.280, chapter 36, Laws of 1955 as last amended by section 46, chapter 78, Laws of 1980 and RCW 77.12.280 are each amended to read as follows:

(1) Claims under RCW 77.12.270 ~~((not exceeding one thousand dollars))~~ may be filed ~~((with the director of financial management))~~ under RCW 4.92.040(5) if within one year of filing with the commission the claim is not settled and paid. ~~((Claims shall conform to the tort claim filing requirements in RCW 4.92.100 as now or hereafter amended.))~~ The ~~((director of financial))~~ risk management office shall recommend to the legislature whether the claim should be approved. If the legislature approves the claim, the department shall pay it from moneys appropriated for that purpose.

(2) If a claim for damages under RCW 77.12.270 has been refused or has not been settled and paid by the commission within one hundred twenty days of the filing of the claim, either the claimant or the commission may serve upon the other personally or by registered mail a notice of intent to arbitrate. The notice shall contain the name of an arbitrator. Within ten days of receiving the notice, the person served shall serve the name of an arbitrator personally or by registered mail upon the other party. The two arbitrators, within seven days of the naming of the second arbitrator, shall select a third arbitrator who shall not be an employee of the department or member of the commission. If the two arbitrators cannot agree upon a third arbitrator, either party may petition the superior court in the county in which the claim arose to select the third arbitrator. Upon receiving the petition, the court shall appoint a third arbitrator. Filing fees or court costs arising from the petition shall be shared equally by the claimant and the department.

(3) The award of the arbitrators is advisory only and shall be filed with the department within ninety days following the naming of the third arbitrator. Payment shall not be made by the commission until the arbitrators have made their advisory award.

NEW SECTION. Sec. 13. Section 4, chapter 140, Laws of 1969 and RCW 4.92.131 are each repealed.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 127

[Senate Bill No. 3018]

LIFE-CYCLE COST IN PUBLIC BUILDINGS

AN ACT Relating to life-cycle cost in public buildings; 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 legislature finds that:

(1) Operating costs of a facility over its lifetime may greatly exceed the initial cost of the facility;

(2) In the planning, design, and funding for new construction or major renovation of state-owned facilities it is desirable to consider not only the initial costs relating to design and construction or acquisition, but the anticipated operating costs relating to the building throughout its life;

(3) The consideration of both initial and operating costs is known as life-cycle cost or life-cycle cost analysis;

(4) Operating costs of a facility for purposes of this act include, but are not limited to, energy costs, maintenance and repair costs, and costs of the work or activity performed within the facility, including wages and salaries;

(5) Current law, chapter 39.35 RCW, speaks to life-cycle cost analysis only in relation to energy conservation; and

(6) Life-cycle cost may not be suitable or cost-effective for all capital projects or all components of a facility, and is not an exclusive criteria for decision-making, but is nonetheless a useful framework for evaluating design and capital investment alternatives.

NEW SECTION. Sec. 2. The legislature declares that:

(1) It is the policy of the state to consider life-cycle costs in the selection of facility design alternatives, to the full extent practical, reasonable, and cost-effective;

(2) Life-cycle cost should be considered by the state government, school districts, and state universities and community colleges in the planning, design, and funding for new construction or major renovations; and

(3) Use of life-cycle cost should be encouraged for cities, counties, and other governmental districts including special purpose districts.

NEW SECTION. Sec. 3. It is the intent of the legislature to:

(1) Expand the definition and use of "life-cycle cost" and "life-cycle cost analysis" to include consideration of all operating costs, as opposed to only energy-related costs as addressed by chapter 39.35 RCW;

(2) Encourage the recognition, development, and use of life-cycle cost concepts and procedures by both the executive and legislative branches in the state's design development and capital budgeting processes;

(3) Ensure the dissemination and use of a common and realistic discount rate by all state agencies in the calculation of the present value of future costs;

(4) Allow and encourage the executive branch to develop specific techniques and procedures for the state government and its agencies, and state universities and community colleges to implement this policy; and

(5) Encourage cities, counties, and other governmental districts including special purpose districts to adopt programs and procedures to implement this policy.

NEW SECTION. Sec. 4. The principal executives of all state agencies are responsible for implementing the policy set forth in this chapter. The office of financial management in conjunction with the department of general administration may establish guidelines for compliance by the state government and its agencies, and state universities and community colleges. The office of financial management shall include within its biennial capital budget instructions:

(1) A discount rate for the use of all agencies in calculating the present value of future costs, and several examples of resultant trade-offs between annual operating costs eliminated and additional capital costs thereby justified; and

(2) Types of projects and building components that are particularly appropriate for life-cycle cost analysis.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall constitute a new chapter in Title 39 RCW.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 128

[Engrossed Substitute Senate Bill No. 3416]

DISHONORED CHECKS

AN ACT Relating to negotiable instruments; amending RCW 62A.3-515 and 62A.3-520; and providing penalties.

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

Sec. 1. Section 1, chapter 23, Laws of 1967 ex. sess. as last amended by section 1, chapter 254, Laws of 1981 and RCW 62A.3-515 are each amended to read as follows:

(1) Whenever a check as defined in RCW 62A.3-104 has been dishonored by nonacceptance or nonpayment the payee or holder of the check is entitled to collect a reasonable handling fee for each such instrument. When such check has not been paid within fifteen days and after the holder of such check sends such notice of dishonor as provided by RCW 62A.3-520 to the drawer at his last known address, then if the instrument does not provide for the payment of interest, or collection costs and attorneys fees, the drawer of such instrument shall also be liable for payment of interest at the rate of twelve percent per annum from the date of dishonor and cost of collection not to exceed forty dollars or the face amount of the check, whichever is the lesser. In addition, in the event of court action on the check the court, after such notice and the expiration of said fifteen days, shall award a reasonable attorneys fee, and three times the face amount of the check or one hundred dollars, whichever is less, as part of the damages payable to the holder of the check. This section shall not apply to any instrument which has been dishonored by reason of any justifiable stop payment order.

(2)(a) Subsequent to the commencement of the action but prior to the hearing, the defendant may tender to the plaintiff as satisfaction of the claim, an amount of money equal to the sum of the amount of the check, a reasonable handling fee, accrued interest, collection costs equal to the face amount of the check not to exceed forty dollars, and the incurred court and service costs.

(b) Nothing in this section precludes the right to commence action in any court under chapter 12.40 RCW for small claims.

Sec. 2. Section 2, chapter 62, Laws of 1969 as amended by section 2, chapter 254, Laws of 1981 and RCW 62A.3-520 are each amended to read as follows:

The notice of dishonor shall be sent by mail to the drawer at his or her last known address, and said notice shall be substantially in the following form:

NOTICE OF DISHONOR OF CHECK

A check drawn by you and made payable by you to in the amount of has not been accepted for payment by, which is the drawee bank designated on your check. This check is dated, and it is numbered, No.

You are CAUTIONED that unless you pay the amount of this check within fifteen days after the date this letter is postmarked, you may very well have to pay the following additional amounts:

- (1) Costs of collecting the amount of the check, including an attorney's fee which will be set by the court; (~~and~~)
- (2) Interest on the amount of the check which shall accrue at the rate of twelve percent per annum from the date of dishonor; and
- (3) One hundred dollars or three times the face amount of the check, whichever is less, by award of the court.

You are advised to make your payment to at the following address:

Passed the Senate March 8, 1986.
 Passed the House March 5, 1986.
 Approved by the Governor March 22, 1986.
 Filed in Office of Secretary of State March 22, 1986.

CHAPTER 129

[Substitute Senate Bill No. 4455]
 ANATOMICAL DONATIONS

AN ACT Relating to anatomical donations; adding a new section to chapter 68.08 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 68.08 RCW to read as follows:

Each hospital shall develop procedures for identifying potential organ and tissue donors. The procedures shall require that any deceased individual's next of kin or other individual, as set forth in RCW 68.08.510, at or near the time of notification of death be asked whether the deceased was an organ donor. If not, the family shall be informed of the option to donate organs and tissues pursuant to the uniform anatomical gift act. With the approval of the designated next of kin or other individual, as set forth in RCW 68.08.510, the hospital shall then notify an established eye bank, tissue bank, or organ procurement agency including those organ procurement agencies associated with a national organ procurement transportation network or other eligible donee, as specified in RCW 68.08.520, and cooperate in the procurement of the anatomical gift or gifts. The procedures shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The procedures may take into account the deceased individual's religious beliefs or obvious unsuitability for organ and tissue donation. Laws pertaining to the jurisdiction of the coroner shall be complied with in all cases of reportable deaths pursuant to RCW 68.08.010.

NEW SECTION. Sec. 2. No act or omission of a hospital in developing or implementing the provisions of section 1 of this act, when performed

in good faith, shall be a basis for the imposition of any liability upon the hospital.

This section shall not apply to any act or omission of the hospital that constitutes gross negligence or wilful and wanton conduct.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 130

[Senate Bill No. 4628]

COMMUNITY COLLEGE BOARDS—CHAIRPERSON AND VICE CHAIRPERSON—QUORUM

AN ACT Relating to the community college board; and amending RCW 28B.50.070.

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

Sec. 1. Section 28B.50.070, chapter 223, Laws of 1969 ex. sess. as last amended by section 26, chapter 75, Laws of 1977 and RCW 28B.50.070 are each amended to read as follows:

The governor shall(~~(, within thirty days after April 3, 1967;)~~) make the appointments to the college board.

The college board shall(~~(, within thirty days after its appointment;)~~) organize, adopt a seal, and adopt bylaws for its administration, not inconsistent herewith, as it may deem expedient and may from time to time amend such bylaws. (~~(At such organizational meeting it shall elect from among its members a chairman and a vice chairman, each to serve for one year, and)~~) Annually ((thereafter)) the board shall elect ((such officers)) a chairperson and vice chairperson; all to serve until their successors are appointed and qualified. The college board shall at its initial meeting fix a date and place for its regular meeting. (~~(Four)~~) Five members shall constitute a quorum, and no meeting shall be held with less than a quorum present, and no action shall be taken by less than a majority of the college board.

Special meetings may be called as provided by its rules and regulations. Regular meetings shall be held at the college board's established offices in Olympia, but whenever the convenience of the public or of the parties may be promoted, or delay or expenses may be prevented, it may hold its meetings, hearings or proceedings at any other place designated by it. The college board shall transmit a report in writing to the governor each year which report shall contain such information as may be requested by the

governor. The fiscal year of the college board shall conform to the fiscal year of the state.

Passed the Senate February 12, 1986.

Passed the House March 10, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 131

[Senate Bill No. 4982]

INDECENT LIBERTIES—CHILD VICTIMS OF SEXUAL ABUSE

AN ACT Relating to child victims of sexual abuse; and amending RCW 9A.44.100.

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

Sec. 1. Section 9A.88.100, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.44.100 are each amended to read as follows:

(1) A person is guilty of indecent liberties when he knowingly causes another person who is not his spouse to have sexual contact with him or another:

(a) By forcible compulsion; or

(b) When the other person is less than fourteen years of age; or

(c) When the other person is less than sixteen years of age and the perpetrator is more than forty-eight months older than the person and is in a position of authority over the person; or

(d) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless.

(2) For purposes of this section((:));

(a) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party.

(b) "Person in a position of authority" means any person who is a parent or acting in the place of a parent and is charged with any of a parent's rights, duties, or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, education, or supervision of a child, either independently or through another, no matter how briefly, at the time of the act.

(3) Indecent liberties is a class B felony.

Passed the Senate March 10, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 22, 1986.

Filed in Office of Secretary of State March 22, 1986.

CHAPTER 132

[Engrossed House Bill No. 1339]
SCHOOL ATTENDANCE

AN ACT Relating to school attendance; amending RCW 28A.27.010, 28A.27.020, 28A.27.022, 28A.27.040, 28A.27.100, and 28A.27.110; and creating a new section.

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

Sec. 1. Section 2, chapter 10, Laws of 1972 ex. sess. as last amended by section 1, chapter 441, Laws of 1985 and RCW 28A.27.010 are each amended to read as follows:

(1) All parents in this state of any child eight years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides and such child shall have the responsibility to and therefore shall attend for the full time when such school may be in session unless:

(a) The child is attending an approved private school for the same time or is enrolled in an extension program as provided in RCW 28A.02.201(4);

(b) The child is receiving home-based instruction as provided in subsection (4) of this section; or

(c) The school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school, is attending a residential school operated by the department of social and health services, or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and the parent: PROVIDED, That such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the student's educational progress: PROVIDED FURTHER, That students excused for such temporary absences may be claimed as full time equivalent students to the extent they would otherwise have been so claimed for the purposes of RCW 28A.41.130 and 28A.41.140, as now or hereafter amended, and shall not affect school district compliance with the provisions of RCW 28A.58.754, as now or hereafter amended;

(d) The child is fifteen years of age or older and:

(i) The school district superintendent determines that such child has already attained a reasonable proficiency in the branches required by law to be taught in the first nine grades of the public schools of this state;

(ii) The child is regularly and lawfully engaged in a useful or remunerative occupation;

(iii) The child has already met graduation requirements in accordance with state board of education rules and regulations; or

(iv) The child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW 28A.04.135.

(2) A parent for the purpose of this chapter means a parent, guardian, or person having legal custody of a child.

(3) An approved private school for the purposes of this chapter shall be one approved under regulations established by the state board of education pursuant to RCW 28A.04.120 as now or hereafter amended.

(4) For the purposes of this chapter, instruction shall be home-based if it consists of planned and supervised instructional and related educational activities, including a curriculum and instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of an appreciation of art and music, provided for a number of hours equivalent to the total annual program hours per grade level established for approved private schools under RCW 28A.02.201 and 28A.02.240 and if such activities are:

(a) Provided by a parent who is instructing his or her child only and are supervised by a certificated person. A certificated person for purposes of this chapter shall be a person certified under chapter 28A.70 RCW. For purposes of this section, "supervised by a certificated person" means: The planning by the certificated person and the parent of objectives consistent with this subsection; a minimum each month of an average of one contact hour per week with the child being supervised by the certificated person; and evaluation of such child's progress by the certificated person. The number of children supervised by the certificated person shall not exceed thirty for purposes of this subsection; or

(b) Provided by a parent who is instructing his or her child only and who has either earned forty-five college level quarter credit hours or its equivalent in semester hours or has completed a course in home-based instruction at a postsecondary institution or a vocational-technical institute; or

(c) Provided by a parent who is deemed sufficiently qualified to provide home-based instruction by the superintendent of the local school district in which the child resides.

(5) The legislature recognizes that home-based instruction is less structured and more experiential than the instruction normally provided in a classroom setting. Therefore, the provisions of subsection (4) of this section relating to the nature and quantity of instructional and related educational activities shall be liberally construed.

Sec. 2. Section 1, chapter 201, Laws of 1979 ex. sess. and RCW 28A-.27.020 are each amended to read as follows:

If a juvenile required to attend school under the laws of the state of Washington fails to attend school without valid justification recurrently or for an extended period of time, the juvenile's school, where appropriate, shall:

(1) Inform the juvenile's custodial parent, parents or guardian by a notice in writing in English and, if different, in the primary language of the

custodial parent, parents or guardian and by other means reasonably necessary to achieve notice of the fact that the juvenile has failed to attend school without valid justification recurrently or for an extended period of time;

(2) Schedule a conference or conferences with the custodial parent, parents or guardian and juvenile at a time and place reasonably convenient for all persons included for the purpose of analyzing the causes of the juvenile's absences; and

(3) Take steps to eliminate or reduce the juvenile's absences(~~(-including)~~). These steps shall include, where appropriate, adjusting the juvenile's school program or school or course assignment, providing more individualized or remedial instruction, preparing the juvenile for employment with specific vocational courses or work experience, or both, ((or)) and assisting the parent or student to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school.

Sec. 3. Section 2, chapter 201, Laws of 1979 ex. sess. and RCW 28A.27.022 are each amended to read as follows:

If action taken by a school pursuant to RCW 28A.27.020 is not successful in substantially reducing a student's absences from school, any of the following actions may be taken: (1) The attendance officer of the school district through its attorney may petition the juvenile court to assume jurisdiction under this chapter for the purpose of alleging a violation of RCW 28A.27.010 by the parent; or (2) a petition alleging a violation of RCW 28A.27.010 by a child may be filed with the juvenile court by the parent of such child or by the attendance officer of the school district through its attorney at the request of the parent. If the court assumes jurisdiction in such an instance, the provisions of this chapter, except where otherwise stated, shall apply.

Sec. 4. Section 28A.27.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 56, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.27.040 are each amended to read as follows:

To aid in the enforcement of RCW 28A.27.010 through 28A.27.130, attendance officers shall be appointed and employed as follows: In incorporated city districts the board of directors shall annually appoint one or more attendance officers. In all other districts the educational service district superintendent shall appoint one or more attendance officers or may act as such himself.

The compensation of attendance officer in city districts shall be fixed and paid by the board appointing him. The compensation of attendance officers when appointed by the educational service district superintendents shall be paid by the respective districts. An educational service district superintendent shall receive no extra compensation if acting as attendance officer.

Any sheriff, constable, city marshal or regularly appointed policeman may be appointed attendance officer.

The attendance officer shall be vested with police powers, the authority to make arrests and serve all legal processes contemplated by RCW 28A.27.010 through 28A.27.130, and shall have authority to enter all places in which children may be employed, for the purpose of making such investigations as may be necessary for the enforcement of RCW 28A.27.010 through 28A.27.130. The attendance officer is authorized to take into custody the person of any child eight years of age and not over fourteen years of age, who may be a truant from school, and to conduct such child to his parents, for investigation and explanation, or to the school which he should properly attend. The attendance officer shall institute proceedings against any officer, parent, guardian, person, company or corporation violating any provisions of RCW 28A.27.010 through 28A.27.130, and shall otherwise discharge the duties prescribed in RCW 28A.27.010 through 28A.27.130, and shall perform such other services as the educational service district superintendent or the superintendent of any school or its board of directors may deem necessary. However, the attendance officer shall not institute proceedings against the child under RCW 28A.27.022 except as set forth under RCW 28A.27.022.

The attendance officer shall keep a record of his transactions for the inspection and information of any school district board of directors, the educational service district superintendent or the city superintendent, and shall make a detailed report to the city superintendent or the educational service district superintendent as often as the same may be required.

Sec. 5. Section 28A.27.100, chapter 223, Laws of 1969 ex. sess. as amended by section 6, chapter 201, Laws of 1979 ex. sess. and RCW 28A.27.100 are each amended to read as follows:

Any person violating any of the provisions of either RCW 28A.27.010 or 28A.27.090 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. However, a child found to be in violation of RCW 28A.27.010 shall be required to attend school and shall not be fined. Failure by a child to comply with an order issued under this section shall not be punishable by detention for a period greater than that permitted pursuant to a contempt proceeding against a child under chapter 13.32A RCW. It shall be a defense for a ((person)) parent charged with violating RCW 28A.27.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the juvenile's school did not perform its duties as required in RCW 28A.27.020. Any fine imposed pursuant to this section may be suspended upon the condition that a ((person)) parent charged with violating RCW 28A.27.010 shall participate with the school and the juvenile in a supervised plan for the juvenile's attendance at school or upon condition that the ((person)) parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

Attendance officers shall make complaint for violation of the provisions of RCW 28A.27.010 through 28A.27.130 (~~by any person eighteen years of age or over~~) to a justice of the peace, justice court judge or to a judge of the superior court.

Sec. 6. Section 28A.27.110, chapter 223, Laws of 1969 ex. sess. as amended by section 7, chapter 201, Laws of 1979 ex. sess. and RCW 28A.27.110 are each amended to read as follows:

The county prosecuting attorney or the attorney for the school district shall act as attorney for the complainant in all court proceedings relating to the compulsory attendance of children as required by RCW 28A.27.010 through 28A.27.130 except for those petitions filed against a child by the parent without the assistance of the school district.

NEW SECTION. Sec. 7. The school district attendance officer shall report biannually to the educational service district superintendent, in the instance of petitions filed alleging a violation by a child under RCW 28A.27.022:

- (1) The number of petitions filed by a school district or by a parent;
- (2) The frequency of each action taken under RCW 28A.27.020 prior to the filing of such petition;
- (3) When deemed appropriate under RCW 28A.27.020, the frequency of delivery of supplemental services; and
- (4) Disposition of cases filed with the juvenile court, including the frequency of contempt orders issued to enforce a court's order under RCW 28A.27.100.

The educational service district superintendent shall compile such information and report annually to the superintendent of public instruction. The superintendent of public instruction shall compile such information and report to the committees of the house of representatives and the senate by January 1, 1988.

Passed the House March 9, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 133

[Substitute House Bill No. 1624]

SCHOOL LEVIES

AN ACT Relating to school levies; amending RCW 84.52.053 and 84.52.054; and providing an effective date.

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

Sec. 1. Section 3, chapter 325, Laws of 1977 ex. sess. and RCW 84.52.053 are each amended to read as follows:

The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by school districts, when authorized so to do by the electors of such school district in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended, at a special or general election to be held in the year in which the levy is made or, in the case of a proposition authorizing levies for support of a school district, including but not limited to levies to support the construction, modernization, or remodeling of school facilities and levies for the maintenance and operation of schools, for a ~~((two year))~~ period exceeding one year, at a special or general election to be held in the year in which the first annual levy is made: PROVIDED, That once additional tax levies have been authorized for ~~((the))~~ maintenance and operation support of a school district for a two year period, no further additional tax levies for ~~((the))~~ maintenance and operation support of the district for that period may be authorized.

A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no".

Sec. 2. Section 84.52.054, chapter 15, Laws of 1961 as last amended by section 2, chapter 325, Laws of 1977 ex. sess. and RCW 84.52.054 are each amended to read as follows:

The additional tax provided for in subparagraph (a) of the seventeenth amendment to the state Constitution as amended by Amendment 59 and as thereafter amended, and specifically authorized by RCW 84.52.052, as now or hereafter amended, and RCW 84.52.053 and 84.52.0531, shall be set forth in terms of dollars on the ballot of the proposition to be submitted to the voters, together with an estimate of the dollar rate of tax levy that will be required to produce the dollar amount; and the county assessor, in spreading this tax upon the rolls, shall determine the eventual dollar rate required to produce the amount of dollars so voted upon, regardless of the estimate of dollar rate of tax levy carried in said proposition. In the case of a school district proposition for a ~~((two year))~~ particular period, the dollar amount and the corresponding estimate of the dollar rate of tax levy shall be set forth for each of the ~~((two))~~ years in that period. The dollar amount for each ~~((of the two))~~ annual ~~((levies))~~ levy in the particular period may be equal or in different amounts.

NEW SECTION. Sec. 3. This act shall take effect on December 15, 1986, if the proposed amendment to Article VII, section 2 of the state Constitution to change the time periods for school levies, House Joint Resolution No. 55, is validly submitted and is approved and ratified by the voters at a general election held in November, 1986. If the proposed

amendment is not so approved and ratified, this act shall be null and void in its entirety.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 134

[House Bill No. 1635]

DAY CARE—CHILDREN OF STATE EMPLOYEES—STUDY BY THE DEPARTMENT OF GENERAL ADMINISTRATION CONCERNING SPACE

AN ACT Relating to day care for the children of state employees; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that: (1) There is an increasing demand for affordable, accessible, and quality child day care for the children of state employees; (2) child day care services on or near the employment site are of benefit to employees, their children, and employers; and (3) there is a need to determine the feasibility of providing space for child day care facilities on or near state employees' work sites. Therefore, the legislature finds that it is in the public interest to require a feasibility study as provided in this act.

NEW SECTION. Sec. 2. (1) The department of general administration shall conduct a study analyzing the feasibility of providing space for the day care of the children of state employees in or near (a) existing state-owned or leased facilities, and (b) planned facilities that will be owned or leased by the state.

(2) The study required by this section shall (a) include consideration of any constraints created by the architecture, size, and the number of employees housed in a given structure; licensing of day care facilities, costs, and other factors identified by the department; and (b) recommend the appropriate state policy or policies regarding providing space for child day care in or near state-owned or leased facilities.

(3) The study required by this section shall be submitted no later than October 30, 1986, to (a) the governor, and (b) the chief clerk of the house of representatives and the secretary of the senate for submittal to and review by the appropriate standing committees of the legislature.

Passed the House February 13, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 135

[Engrossed House Bill No. 1656]

DAY CARE—CHILDREN OF STATE EMPLOYEES—STATE PERSONNEL BOARD AND HIGHER EDUCATION PERSONNEL BOARD TO STUDY STATUTES AND RULES

AN ACT Relating to day care for state employees; adding a new section to chapter 41.04 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 41.04 RCW to read as follows:

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child day care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; and (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child day care needs. The legislature finds further that resolving employee child day care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child day care needs.

NEW SECTION. Sec. 2. (1) The state personnel board created under chapter 41.06 RCW shall study chapter 41.06 RCW and other appropriate statutes and the rules adopted to implement them in order to identify areas where state law and administrative rule could be modified to recognize the importance of child day care and to create a supportive atmosphere in which state employees may meet their needs for child day care. Where appropriate, the board shall adopt or amend its rules in order to permit and encourage agency heads to carry out the purposes of this act.

(2) The higher education personnel board created under chapter 28B.16 RCW shall study chapter 28B.16 RCW and other appropriate statutes and the rules adopted to implement them in order to identify areas where state law and administrative rules could be modified to recognize the importance of child day care and to create a supportive atmosphere in which state employees may meet their needs for child day care. Where appropriate, the board shall adopt or amend its rules in order to permit and encourage agency heads to carry out the purposes of this act.

(3) The studies required under subsections (1) and (2) of this section shall include, but not be limited to, consideration of job sharing and part-

time employment, flex-time and other alternative work schedules, flex-workplace opportunities, leave policies, orientation and training regarding personnel practices relating to working parent concerns, and the potential for developing state information and referral services.

(4) The state personnel board and the higher education personnel board shall coordinate and submit a joint report containing the results of the studies required under this section. The report shall include a description of the rules that have been adopted or modified or those proposed for adoption or modification, and recommended changes or additions to state law necessary to carry out the purposes of this act. The report shall be submitted no later than October 30, 1986, to (a) the governor, and (b) the chief clerk of the house of representatives and the secretary of the senate for submittal to and review by the appropriate standing committees of the legislature.

Passed the House February 13, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 136

[Engrossed Substitute House Bill No. 1688]

HIGHER EDUCATION DEGREE GRANTING INSTITUTIONS—REGULATED

AN ACT Relating to higher education; amending RCW 28B.80.360; adding a new chapter to Title 28B RCW; creating a new section; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Board" means the higher education coordinating board.

(2) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level.

(3) "Degree granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree beyond the secondary level.

NEW SECTION. Sec. 2. The board:

(1) Shall adopt by rule minimum standards for degree granting institutions concerning granting of degrees, quality of education, unfair business

practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The board shall adopt the rules in accordance with chapter 34.04 RCW;

(2) May investigate any entity the board reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the board may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the board deems relevant or material to the investigation. The board, including its staff and any other authorized persons, may conduct site inspections and examine records of all institutions subject to this chapter;

(3) Shall develop an interagency agreement with the commission for vocational education or its successor agency to regulate degree-granting private vocational schools with respect to nondegree programs.

NEW SECTION. Sec. 3. A degree granting institution shall not operate and shall not grant or offer to grant any degree unless the institution has obtained current authorization from the board.

NEW SECTION. Sec. 4. (1) An institution or person shall not advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's publications. This prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) Except as provided in subsection (1) of this section, this chapter shall not apply to:

(a) Any public college, university, or other entity operating as part of the public educational system of this state.

(b) Institutions that have been accredited by an accrediting association recognized by the agency for the purposes of this chapter, provided that an institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption.

(c) Institutions of a religious character, but only as to those education programs devoted exclusively to religious or theological objectives if the programs are represented in an accurate manner in institutional catalogs and other official publications.

(d) Institutions not otherwise exempt which offer only workshops or seminars lasting no longer than three calendar days and for which academic credit is not awarded.

NEW SECTION. Sec. 5. All degree-granting institutions subject to this chapter shall file information with the board as the board may require.

NEW SECTION. Sec. 6. The board shall impose fees on any degree-granting institution authorized to operate under this chapter. Fees shall be set and revised by the board by rule at the level necessary to approximately recover the staffing costs incurred in administering this chapter. Fees shall be deposited in the general fund.

NEW SECTION. Sec. 7. (1) The board may require any degree-granting institution to have on file with the board an approved surety bond or other security in lieu of a bond in an amount determined by the board.

(2) In lieu of a surety bond, an institution may deposit with the board a cash deposit or other negotiable security acceptable to the board. The security deposited with the board in lieu of the surety bond shall be returned to the institution one year after the institution's authorization has expired or been revoked if legal action has not been instituted against the institution or the security deposit at the expiration of the year. The obligations and remedies relating to surety bonds authorized by this section, including but not limited to the settlement of claims procedure in subsection (5) of this section, shall apply to deposits filed with the board, as applicable.

(3) Each bond shall:

(a) Be executed by the institution as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state for the benefit and protection of any student or enrollee of an institution, or, in the case of a minor, his or her parents or guardian;

(c) Be conditioned on compliance with all provisions of this chapter and the board's rules adopted under this chapter;

(d) Require the surety to give written notice to the board at least thirty-five days before cancellation of the bond; and

(e) Remain in effect for one year following the effective date of its cancellation or termination as to any obligation occurring on or before the effective date of cancellation or termination.

(4) Upon receiving notice of a bond cancellation, the board shall notify the institution that the authorization will be suspended on the effective date of the bond cancellation unless the institution files with the board another approved surety bond or other security. The board may suspend or revoke the authorization at an earlier date if it has reason to believe that such action will prevent students from losing their tuition or fees.

(5) If a complaint is filed under section 9(1) of this act against an institution, the board may file a claim against the surety and settle claims against the surety by following the procedure in this subsection.

(a) The board shall attempt to notify all potential claimants. If the absence of records or other circumstances makes it impossible or unreasonable for the board to ascertain the names and addresses of all the claimants, the board after exerting due diligence and making reasonable inquiry to secure that information from all reasonable and available sources, may make

a demand on a bond on the basis of information in the board's possession. The board is not liable or responsible for claims or the handling of claims that may subsequently appear or be discovered.

(b) Thirty days after notification, if a claimant fails, refuses, or neglects to file with the board a verified claim, the board shall be relieved of further duty or action under this chapter on behalf of the claimant.

(c) After reviewing the claims, the board may make demands upon the bond on behalf of those claimants whose claims have been filed. The board may settle or compromise the claims with the surety and may execute and deliver a release and discharge of the bond.

(d) If the surety refuses to pay the demand, the board may bring an action on the bond in behalf of the claimants. If an action is commenced on the bond, the board may require a new bond to be filed.

(e) Within ten days after a recovery on a bond or other posted security has occurred, the institution shall file a new bond or otherwise restore its security on file to the required amount.

(6) The liability of the surety shall not exceed the amount of the bond.

NEW SECTION. Sec. 8. The board may suspend or modify any of the requirements under this chapter in a particular case if the board finds that:

(1) The suspension or modification is consistent with the purposes of this chapter; and

(2) The education to be offered addresses a substantial, demonstrated need among residents of the state or that literal application of this chapter would cause a manifestly unreasonable hardship.

NEW SECTION. Sec. 9. (1) A person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the board. The complaint shall set forth the alleged violation and shall contain information required by the board. A complaint may also be filed with the board by an authorized staff member of the board or by the attorney general.

(2) The board shall investigate any complaint under this section and may attempt to bring about a settlement. The board may hold a contested case hearing pursuant to the administrative procedure act, chapter 34.04 RCW, in order to determine whether a violation has occurred. If the board prevails, the degree-granting institution shall pay the costs of the administrative hearing.

(3) If, after the hearing, the board finds that the institution or its agent engaged in or is engaging in any unfair business practice, the board shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under section 10 of this act. If the board finds that the complainant has suffered loss as a result of the act or practice, the board may order full or partial restitution for the loss. The complainant is not bound by the board's determination of restitution and may pursue any other legal remedy.

NEW SECTION. Sec. 10. Any person, group, or entity or any owner, officer, agent, or employee of such entity who wilfully violates any provision of this chapter or the rules adopted under this chapter shall be subject to a civil penalty of not more than one hundred dollars for each violation. Each day on which a violation occurs constitutes a separate violation. The fine may be imposed by the higher education coordinating board or by any court of competent jurisdiction.

NEW SECTION. Sec. 11. Any person, group, or entity or any owner, officer, agent, or employee of such entity who wilfully violates section 3 of this act shall be guilty of a gross misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment. Each day on which a violation occurs constitutes a separate violation. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state.

NEW SECTION. Sec. 12. A degree-granting institution, whether located in this state or outside of this state, that conducts business of any kind, makes any offers, advertises, solicits, or enters into any contracts in this state or with a resident of this state is subject to the jurisdiction of the courts of this state for any cause of action arising from the acts.

NEW SECTION. Sec. 13. If any degree-granting institution discontinues its operation, the chief administrative officer of the institution shall file with the board the original or legible true copies of all educational records required by the board. If the board determines that any educational records are in danger of being made unavailable to the board, the board may seek a court order to protect and if necessary take possession of the records. The board shall cause to be maintained a permanent file of educational records coming into its possession.

NEW SECTION. Sec. 14. If a student or prospective student is a resident of this state at the time any contract relating to payment for education or any note, instrument, or other evidence of indebtedness relating thereto is entered into, section 15 of this act shall govern the rights of the parties to the contract or evidence of indebtedness. If a contract or evidence of indebtedness contains any of the following agreements, the contract is voidable at the option of the student or prospective student:

- (1) That the law of another state shall apply;
- (2) That the maker or any person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;
- (3) That another person is authorized to confess judgment on the contract or evidence of indebtedness; or
- (4) That fixes venue.

NEW SECTION. Sec. 15. A note, instrument, or other evidence of indebtedness or contract relating to payment for education for a degree is not enforceable in the courts of this state by a degree-granting institution or holder of the instrument unless the institution was authorized to offer the degree under this chapter at the time the note, instrument, or other evidence of indebtedness or contract was entered into.

NEW SECTION. Sec. 16. The attorney general or the prosecuting attorney of any county in which a degree-granting institution or agent of the institution is found may bring an action in any court of competent jurisdiction for the enforcement of this chapter. The court may issue an injunction or grant any other appropriate form of relief.

NEW SECTION. Sec. 17. The board may seek injunctive relief, after giving notice to the affected party, in a court of competent jurisdiction for a violation of this chapter or the rules adopted under this chapter. The board need not allege or prove that the board has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has and is in addition to any right of criminal prosecution provided by law. The existence of board action with respect to alleged violations of this chapter and rules adopted under this chapter does not operate as a bar to an action for injunctive relief under this section.

NEW SECTION. Sec. 18. A violation of this chapter or the rules adopted under this chapter affects the public interest and is an unfair or deceptive act or practice in violation of RCW 19.86.020 of the consumer protection act. The remedies and sanctions provided by this section shall not preclude application of other remedies and sanctions.

NEW SECTION. Sec. 19. The remedies and penalties provided for in this chapter are nonexclusive and cumulative and do not affect any other actions or proceedings.

Sec. 20. Section 7, chapter 370, Laws of 1985 and RCW 28B.80.360 are each amended to read as follows:

The board shall perform the following administrative responsibilities:

(1) Administer the programs set forth in the following statutes: Chapter 28A.58 RCW (Washington scholars); chapter 28B.04 RCW (displaced homemakers); (~~chapter 28B.05 RCW (education registration);~~) chapter 28B.— RCW (sections 1 through 19 of this 1986 act) (degree-granting institutions); RCW 28B.10.210 through 28B.10.220 (blind students subsidy); RCW 28B.10.800 through 28B.10.824 (student financial aid program); chapter 28B.12 RCW (work study); RCW 28B.15.067 through 28B.15.076 (educational costs for establishing tuition and fees); RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.80.150 through 28B.80.170 (student exchange compact); RCW 28B.80.240 (student aid programs); and RCW 28B.80.210 (federal programs).

(2) Study the delegation of the administration of the following: RCW 28B.65.040 through 28B.65.060 (high-technology board); chapter 28B.—RCW (sections 1 through 19 of this 1986 act) (degree-granting institutions); RCW 28B.80.150 through 28B.80.170 (student exchange compact programs); RCW 28B.80.200 (state commission for federal law purposes); RCW 28B.80.210 (enumerated federal programs); RCW 28B.80.230 (receipt of federal funds); RCW 28B.80.240 (student financial aid programs); RCW 28A.58.824 through (~~28A.58.832~~) 28A.58.830 (Washington scholars); RCW 28B.15.543 (Washington scholars); RCW 28B.04.020 through 28B.04.110 (displaced homemakers); RCW 28B.10.215 and 28B.10.220 (blind students); RCW 28B.10.790, 28B.10.792, and 28B.10.802 through 28B.10.844 (student financial aid); RCW 28B.12.040 through 28B.12.070 (student work study); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.736 (Oregon reciprocity); RCW 28B.15.750 through 28B.15.754 (Idaho reciprocity); RCW 28B.15.756 and 28B.15.758 (British Columbia reciprocity); and RCW 28B.15.760 through 28B.15.764 (math/science loans). The board shall report the results of its study and recommendations to the legislature.

NEW SECTION. Sec. 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 22. A degree-granting institution registered under chapter 188, Laws of 1979, as amended, as of June 30, 1986, is not required to apply for authorization under chapter 28B.—RCW (sections 1 through 19 of this act) until the expiration date of such registration.

NEW SECTION. Sec. 23. Sections 1 through 19 of this act shall constitute a new chapter in Title 28B RCW.

NEW SECTION. Sec. 24. This act shall take effect July 1, 1986.

Passed the House March 10, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 137

[Engrossed House Bill No. 1725]

SCHOOL DISTRICT STUDENT LEARNING OBJECTIVES—PERIODIC REVIEW

AN ACT Relating to the periodic review of school district student learning objectives programs; and amending RCW 28A.58.090.

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

Sec. 1. Section 1, chapter 90, Laws of 1975-'76 2nd ex. sess. as last amended by section 3, chapter 278, Laws of 1984 and RCW 28A.58.090 are each amended to read as follows:

Every school district board of directors, being accountable to the citizens within its district as to the education offered to the students therein, shall, based on the timeline established by the superintendent of public instruction, develop a program identifying student learning objectives for their district in all courses of study included in the school district programs. The school district must evidence community participation in defining the objectives of such a program. The program of student learning objectives shall assure that the district's resources in the educational program, such as money, facilities, time, materials and personnel, are used so as to provide both economies in management and operation, and quality education in all subject areas and courses. The learning objectives shall be measurable as to the actual student attainment; student attainment shall be locally assessed annually (~~and~~). The student learning objectives program shall be reviewed at least every two years. However, a school district may instead provide for the periodic review of all or a part of its student learning objectives program in accordance with the time schedule the district has established for the periodic review of curriculum or the periodic review and selection of textbooks, or in accordance with the time schedule for self-study as provided under RCW 28A.58.085, if and to the extent the curriculum or textbook review processes include the review or self-study of the district's student learning objectives program. Periodic review shall take place at least every seven years. In developing and reviewing the learning objectives, districts shall give specific attention to improving the depth of course content within courses and in coordinating the sequence in which subject matter is presented.

The superintendent of public instruction shall review implementation of the learning objectives law biennially and shall submit a report of such review to the legislature on or before January 1 of each odd-numbered year.

The state board of education shall examine the programs in each school district in the state for reasons of program approval as required in accordance with RCW 28A.41.130, as now or hereafter amended.

School districts may obtain assistance in carrying out their duties under this section from the educational service district of which they are a part.

Passed the House March 8, 1986.

Passed the Senate February 27, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 138

[House Bill No. 1795]

CHILD SUPPORT ORDERS

AN ACT Relating to information in child support orders; and amending RCW 26.09.135, 26.21.125, and 26.26.132.

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

Sec. 1. Section 21, chapter 260, Laws of 1984 and RCW 26.09.135 are each amended to read as follows:

(1) Every court order or decree establishing a child support obligation shall state:

(a) That((:)) 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 obligee of the support payments may seek a mandatory wage assignment under chapter 26.18 RCW without prior notice to the obligor((:-Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree));

(b) The income of the parties, if known, or that their income is unknown, or the anticipated income upon which the support award is based;

(c) The support award as a fixed dollar sum or the formula by which the calculation of support is made;

(d) The specific day or date on which the support payment is due;

(e) The social security numbers, if known, of the obligor and obligee of the support payments; and

(f) Which party has or parties have custody of each child for whom an order of support is entered.

(2) Failure to comply with subsection (1) of this section does not affect the validity of the support order.

Sec. 2. Section 22, chapter 260, Laws of 1984 and RCW 26.21.125 are each amended to read as follows:

(1) Every court order or decree establishing a child support obligation shall state:

(a) That((:)) 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 obligee of the support payments may seek a mandatory wage assignment under chapter 26.18 RCW without prior notice to the obligor((:-Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require

that the social security number of the obligor be included in the order or decree));

(b) The income of the parties, if known, or that their income is unknown, or the anticipated income upon which the support award is based;

(c) The support award as a fixed dollar sum or the formula by which the calculation of support is made;

(d) The specific day or date on which the support payment is due;

(e) The social security numbers, if known, of the obligor and obligee of the support payments; and

(f) Which party has or parties have custody of each child for whom an order of support is entered.

(2) Failure to comply with subsection (1) of this section does not affect the validity of the support order.

Sec. 3. Section 23, chapter 260, Laws of 1984 and RCW 26.26.132 are each amended to read as follows:

(1) Every court order or decree establishing a child support obligation shall state:

(a) That(;) 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 obligee of the support payments may seek a mandatory wage assignment under chapter 26.18 RCW without prior notice to the obligor(~~Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree~~));

(b) The income of the parties, if known, or that their income is unknown, or the anticipated income upon which the support award is based;

(c) The support award as a fixed dollar sum or the formula by which the calculation of support is made;

(d) The specific day or date on which the support payment is due;

(e) The social security numbers, if known, of the obligor and obligee of the support payments; and

(f) Which party has or parties have custody of each child for whom an order of support is entered.

(2) Failure to comply with subsection (1) of this section does not affect the validity of the support order.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 139

[Substitute House Bill No. 1829]

STUDENTS WITH SPECIAL NEEDS—CATEGORICAL INSTRUCTIONAL SERVICES—STUDY BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION

AN ACT Relating to the study of categorical instructional services for students with special needs; and creating new sections.

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

NEW SECTION. Sec. 1. The superintendent of public instruction shall study methods to provide improved instruction to students needing categorical educational services and shall develop recommendations that enhance these students' opportunities for success. The study and recommendations shall include at least the following topics:

(1) Future service demand in light of changing student demographics, longitudinal trends, eligibility standards for special needs students, and declining federal resources;

(2) The adequacy of the state's data and information systems as they relate to class size and students requiring categorical educational services;

(3) The relationship between the current system for the delivery of categorical educational services and the ability of the regular classroom to meet student diversity;

(4) The relationship between the ratio of certificated staff to students in the classroom and the number of students referred and the type of categorical assistance for which referrals are made;

(5) The relationship between the ratio of adults to students in the classroom and the number of students referred and the type of categorical assistance for which referrals are made;

(6) The interrelationship between various state and federal programs designed to serve students requiring categorical educational services, and the effect of targeting under existing state and federal statutes and regulations;

(7) The relationship between the methods of delivering categorical educational services and research results about educational success;

(8) The impact of delivering categorical educational services in the regular classroom setting to include: (a) Class size considerations, (b) teaching methods, and (c) coordination of categorical program services;

(9) The interaction between and effects upon educators, support staff, and parents of students needing categorical educational services in various delivery models; and

(10) Other topics designated by the advisory committee described in this section.

In conducting this study, the superintendent of public instruction shall include data regarding the categorical education services and students engaged in at least the following programs: Federal chapter 1 disadvantaged and chapter 1 migrant, bilingual, the state remediation assistance program, and the federal and state special education programs.

An advisory committee consisting of legislators and representatives of education organizations concerned with the delivery of categorical instructional services and regular classroom instruction shall be appointed. Representatives of the instructional organizations shall be appointed by the superintendent of public instruction. There shall be four representatives of the legislature. The speaker of the house of representatives shall appoint one member from each caucus to represent the house of representatives on the advisory committee. The president of the senate shall appoint one member from each caucus to represent the senate on the advisory committee. The advisory committee shall review the resulting recommendations of the study and present its position on each to the superintendent of public instruction.

This section shall expire January 30, 1987.

NEW SECTION. Sec. 2. The study shall be completed and results and recommendations for investigation of systems refining categorical education services through data-based pilot projects shall be reported to the legislature no later than January 5, 1987.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 140

[Engrossed Substitute House Bill No. 1986]

ADOPTED CHILDREN—INSURANCE COVERAGE

AN ACT Relating to insurance coverage for adopted children; adding a new section to chapter 48.01 RCW; 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 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 48.01 RCW to read as follows:

A child of an insured, subscriber, or enrollee shall be considered a dependent child for insurance purposes under this title: (1) Upon being physically placed with the insured, subscriber, or enrollee for the purposes of adoption under the laws of the state in which the insured, subscriber, or enrollee resides; and (2) upon assumption by the insured, subscriber, or enrollee of the financial responsibility for the medical expenses of the child.

Eligibility for coverage of an adopted child is governed by applicable contract, policy, or agreement provisions with respect to dependent children, including any established underwriting guidelines.

NEW SECTION. Sec. 2. A new section is added to chapter 48.20 RCW to read as follows:

(1) Any disability insurance contract providing hospital and medical expenses and health care services, delivered or issued for delivery in this state, which provides coverage for dependent children, as defined in the contract of the insured, shall cover adoptive children placed with the insured on the same basis as other dependents, as provided in section 1 of this act.

(2) If payment of an additional premium is required to provide coverage for a child, the contract may require that notification of placement of a child for adoption and payment of the required premium must be furnished to the insurer. The notification period shall be no less than sixty days from the date of placement.

NEW SECTION. Sec. 3. A new section is added to chapter 48.21 RCW to read as follows:

(1) Any group disability insurance contract, except a blanket disability insurance contract, providing hospital and medical expenses and health care services, delivered or issued for delivery in this state, which provides coverage for dependent children, as defined in the contract of the insured, shall cover adoptive children placed with the insured on the same basis as other dependents, as provided in section 1 of this act.

(2) If payment of an additional premium is required to provide coverage for a child, the contract may require that notification of placement of a child for adoption and payment of the required premium must be furnished to the insurer. The notification period shall be no less than sixty days from the date of placement.

NEW SECTION. Sec. 4. A new section is added to chapter 48.44 RCW to read as follows:

(1) Any health care service contract under this chapter delivered or issued for delivery in this state, which provides coverage for dependent children, as defined in the contract of the subscriber, shall cover adoptive children placed with the subscriber on the same basis as other dependents, as provided in section 1 of this act.

(2) If payment of an additional premium is required to provide coverage for a child, the contract may require that notification of placement of a child for adoption and payment of the required premium must be furnished to the health care services contractor. The notification period shall be no less than sixty days from the date of placement.

NEW SECTION. Sec. 5. A new section is added to chapter 48.46 RCW to read as follows:

(1) Any health maintenance agreement under this chapter which provides coverage for dependent children, as defined in the agreement of the enrolled participant, shall cover adoptive children placed with the enrolled participant on the same basis as other dependents, as provided in section 1 of this act.

(2) If payment of an additional premium is required to provide coverage for a child, the agreement may require that notification of placement of a child for adoption and payment of the required premium must be furnished to the health maintenance organization. The notification period shall be no less than sixty days from the date of placement.

NEW SECTION. Sec. 6. This act shall take effect January 1, 1987, and shall apply to all contracts or agreements issued, renewed, or delivered on or after January 1, 1987.

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 House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 141

[Substitute House Bill No. 2080]

DAY CARE SERVICES—INSURERS—JOINT UNDERWRITING ASSOCIATION

AN ACT Relating to day care service providers; adding a new chapter to Title 48 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. Day care service providers have experienced major problems in both the availability and affordability of liability insurance. Premiums for such insurance policies have recently grown as much as five hundred percent and the availability of such insurance in Washington markets has greatly diminished.

The availability of quality day care is essential to achieving such goals as increased work force productivity, family self-sufficiency, and protection for children at risk due to poverty and abuse. The unavailability of adequate liability insurance threatens to decrease the availability of day care services.

This chapter is intended to remedy the problem of unavailable liability insurance for day care services by requiring all insurers authorized to write commercial or professional liability insurance to be members of a joint underwriting association created to provide liability insurance for day care services.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Association" means the joint underwriting association established pursuant to the provisions of this chapter.

(2) "Day care insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional service by any licensee.

(3) "Licensee" means any person or facility licensed to provide day care services pursuant to chapter 74.15 RCW.

NEW SECTION. Sec. 3. The commissioner shall approve by July 1, 1986, a reasonable plan for the establishment of a nonprofit, joint underwriting association for day care insurance, subject to the conditions and limitations contained in this chapter.

NEW SECTION. Sec. 4. The association shall be comprised of all insurers possessing a certificate of authority to write and engage in writing property and casualty insurance within this state on a direct basis, including the liability portion of multiperil policies, but not of ocean marine insurance. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to transact business in this state.

NEW SECTION. Sec. 5. Any licensee may apply to the association to purchase day care insurance, and the association shall offer a policy with liability limits of at least one hundred thousand dollars per occurrence. The commissioner shall require the use of a rating plan for day care insurance that permits rates to be modified for individual licensees according to the type, size and past loss experience of the licensee including any other difference among licensees that can be demonstrated to have a probable effect upon losses.

NEW SECTION. Sec. 6. By December 1, 1987, the commissioner shall file or cause to be filed a report to the legislature detailing the operations, finances, claims, and marketing experience of the association.

NEW SECTION. Sec. 7. The commissioner may adopt all rules necessary to ensure the efficient, equitable operation of the association, including but not limited to, rules requiring or limiting certain policy provisions.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

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

Passed the House February 16, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 142

[Substitute House Bill No. 2083]

DAY CARE CENTERS—SELF-INSURANCE

AN ACT Relating to self-insurance; adding a new chapter to Title 48 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) Day care providers are facing a major crisis in that adequate and affordable business liability insurance is no longer available within this state for persons who care for children. Many day care centers have been forced to purchase inadequate coverage at prohibitive premium rates from unregulated foreign surplus line carriers over which the state has minimal control.

(2) There is a danger that a substantial number of day care centers who cannot afford the escalating premiums will be unable or unwilling to remain in business without adequate coverage. As a result the number of available facilities will be drastically reduced forcing some parents to leave the work force to care for their children. A corresponding demand upon the state's resources will result in the form of public assistance to unemployed parents and day care providers.

(3) There is a further danger that a substantial number of day care centers now licensed pursuant to state law, who currently provide specific safeguards for the health and safety of children but are unable to procure insurance, may choose to continue to operate without state approval, avoiding regulation and payment of legitimate taxes, and forcing some parents to place their children in facilities of unknown quality and questionable levels of safety.

(4) Most day care centers are small business enterprises with limited resources. The state's policies encourage the growth and development of small businesses.

(5) This chapter is intended to remedy the problem of nonexistent or unaffordable liability coverage for day care centers, and to encourage compliance with state laws protecting children while meeting the state's sound economic policies of encouraging small business development, sustaining an active work force, and discouraging policies that result in an increased drain on the state's resources through public assistance and other forms of public

funding. This chapter will empower day care centers to create self-insurance pools, to purchase insurance coverage, and to contract for risk management and administrative services through an association with demonstrated responsible fiscal management.

(6) The intent of this legislation is to allow such associations maximum flexibility to create and administer plans to provide coverage and risk management services to licensed day care centers.

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

(1) "Day care center" means an agency that regularly provides care for one or more children for periods of less than twenty-four hours as defined in RCW 74.15.020(3)(d).

(2) "Association" means a corporation organized under Title 24 RCW, representative of one or more categories of day care centers not formed for the sole purpose of establishing and operating a self-insurance program that:

(a) Maintains a roster of current names and addresses of member day care centers and of former member day care centers or their representatives, and of all employees of member or former member day care centers;

(b) Has a membership of a size and stability to ensure that it will be able to provide consistent and responsible fiscal management; and

(c) Maintains a regular newsletter or other periodic communication to member day care centers.

(3) "Subscriber" means a day care center that:

(a) Subscribes to a plan created pursuant to this chapter;

(b) Complies with all state licensing requirements;

(c) Is a member in good standing of an association;

(d) Has consistently maintained its license free from revocation for cause, except where the revocation was not later rescinded or vacated by appellate or administrative decision; and

(e) Is prepared to demonstrate the willingness and ability to bear its share of the financial responsibility of its participation in the plan for each applicable contractual period.

NEW SECTION. Sec. 3. Associations meeting the criteria of section 2 of this act are empowered to create and operate self-insurance plans to provide general liability coverage to member day care centers who choose to subscribe to the plans.

NEW SECTION. Sec. 4. Except as provided in this chapter, self-insurance plans formed and implemented pursuant to this chapter shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state.

NEW SECTION. Sec. 5. Any association desiring to establish a plan pursuant to this chapter shall prepare and submit to the commissioner a

proposed plan of organization and operation, including the following elements:

(1) A statement that the association meets the requirements of this chapter.

(2) A financial plan specifying:

(a) The coverage to be offered by the self-insurance pool, setting forth a deductible level and maximum level of claims that the pool will self-insure;

(b) The amount of cash reserves to be maintained for the payment of claims;

(c) The amount of insurance, if any, to be purchased to cover claims in excess of the amount of claims to be satisfied directly from the association's own cash reserves;

(d) The amount of stop-loss coverage to be purchased in the event the joint self-insurance pool's resources are exhausted in a given fiscal period;

(e) A mechanism for determining and assessing the contingent liability of subscribers in the event the assets in the contributing trust fund are at any time insufficient to cover liabilities; and

(f) Certification that all subscribers in the pool are apprised of the limitations of coverage to be provided.

(3) A plan of management setting forth:

(a) The means of fulfilling the requirements in section 5(2) of this act;

(b) The names and addresses of board members and their terms of office, and a copy of the corporate bylaws defining the method of election of board members;

(c) The frequency of studies or other evaluation to establish the periodic contribution rates for each of the subscribers;

(d) The responsibilities of subscribers, including procedures for entry into and withdrawal from the pool, the allocation of contingent liabilities and a procedure for immediate assessments if the contributing trust fund falls below the level set in section 5(2)(b) of this act;

(e) A plan for monitoring risks and disseminating information with respect to their reduction or elimination;

(f) A contract with a professional insurance management corporation, for the management and operation of any joint self-insurance pool established by the association; and

(g) The corporate address of the association.

NEW SECTION. Sec. 6. If the plan submitted complies with section 5 of this act and if the terms of the plan reflect sound financial management, the commissioner shall approve the plan submitted pursuant to section 5 of this act.

NEW SECTION. Sec. 7. All funds contributed for the purpose of the self-insurance plan shall be deposited in a contributing trust fund, which shall at all times be maintained separately from the general funds of the

association. The association shall not contribute to or draw upon the contributing trust fund at any time or for any reason other than administration of the trust fund and operation of the plan. All administration and operating costs related to the trust fund shall be drawn from it.

NEW SECTION. Sec. 8. The initial implementation of the plan shall be conditioned upon establishment of the minimum deposits in the contributing trust fund at least thirty days prior to the first effective date of the program for its first year of operation.

NEW SECTION. Sec. 9. In managing the assets of the contributing trust fund, the association shall exercise the reasonable judgment and care that ordinary persons of prudence, intelligence, and discretion exercise in the sound management of their affairs, not in regard to speculation but in regard to preservation of their funds with maximum return, given the information reasonably available. The association may delegate this duty to a responsible fiduciary. If the fiduciary has special skills or represents that it has special skills, then the fiduciary is under a duty to use those skills in the management of the fund's assets.

NEW SECTION. Sec. 10. The association shall provide an annual report of the operations of the plan to all subscribers, to the secretary of social and health services, and to the commissioner. This report shall:

- (1) Review claims made, judgments entered, and claims rejected;
- (2) Certify that the current level of the contributing trust fund is sufficient to meet reasonable needs, or provide a plan for establishing such a level within a reasonable time; and
- (3) Make recommendations for specific measures of risk reduction.

NEW SECTION. Sec. 11. The association shall have the power, in its capacity as plan administrator, to contract for or delegate services as necessary for the efficient management and operation of the plan, including but not limited to:

- (1) Contracting for risk management and loss control services;
- (2) Designing a continuing program of risk reduction, calling for the participation of all subscribers;
- (3) Contracting for legal counsel for the defense of claims and other legal services;
- (4) Consulting with the commissioner, the secretary of social and health services, or other interested state agencies with respect to any matters affecting the provision of day care for the state's children, and related risk problems; and
- (5) Purchasing commercial insurance coverage in the form and amount as the subscribers may by contract agree, including reinsurance, excess coverage, and stop-loss insurance.

NEW SECTION. Sec. 12. (1) All contracts between subscribers and the association shall be for one-year periods and shall terminate on the first

day of the next fiscal year of the association following their signature. Subscribers withdrawing from participation in the plan during any contract period may do so only upon surrender of their licenses to care for children to the department of social and health services.

(2) Premiums should be annual, prorated quarterly in the event any subscriber withdraws, or any new subscriber contracts with the association to become part of the plan during the fiscal year. Subscribers should not have the power to delegate or assign the responsibility for their assessments.

(3) Contracts should provide for recovery by the association, of any assessments that are not promptly contributed, for methods of collection, and for resolution of related disputes.

NEW SECTION. Sec. 13. Within six months of the beginning of any fiscal year in which significant modifications of the plan are envisioned, the association shall provide the commissioner with a statement of those modifications, setting forth the proposed changes, reasons for the changes, and reasonable alternatives, if any exist. The statement shall specifically include reference to coverage available in the commercial insurance market, together with suggested solutions within the joint self-insurance plan.

NEW SECTION. Sec. 14. (1) If at any time the plan can no longer be operated on a sound financial basis, the association may elect to dissolve the plan, subject to explicit approval by the commissioner of a plan for dissolution. Once a plan operated by an association has been dissolved, that association may not again implement a plan pursuant to this chapter for five calendar years.

(2) At dissolution, the assets of the association represented by the contributing trust fund shall be deposited with the commissioner a period of twenty-one years, to be made available for claims arising during that period based upon occurrences during the term of coverage. At the time of transfer of the funds, the association shall certify to the commissioner a list of all current subscribers, with their correct mailing addresses, and shall have notified all current subscribers of their obligation to keep the commissioner informed of any changes in their mailing addresses over the twenty-one year period, and that this obligation extends to their representatives, successors, assigns, and to the representatives of their estates. Upon dissolution, the association shall be required to provide to the commissioner a list of all plan subscribers during all of the years of operation of the plan.

At the end of the twenty-one year period, any funds remaining in the trust account shall be distributed to those subscribers who were current subscribers in the most recent year of operation of the plan, with each current subscriber receiving an equal share of the distribution, without regard for the length of time each day care center was a subscriber.

In the alternative, in the discretion of the association, the balance of the contributing trust fund may be used to purchase similar or more liberal coverage from a commercial insurer. Each subscriber shall, however, be

given the option to deposit its share of the fund with the commissioner as provided in this section if it elects not to participate in the proposed commercial insurance.

NEW SECTION. Sec. 15. No person with a claim covered by a plan established pursuant to this chapter shall be entitled to recover from the plan any amount in excess of the limits of coverage provided for in the plan.

NEW SECTION. Sec. 16. The commissioner may disapprove, and require suspension of a plan for failure of the association to comply with any provision of this chapter, for gross mismanagement, or for wilful disregard and neglect of its fiduciary duty. The association shall have the right to request reconsideration of the commissioner's decision within fifteen days of the receipt of the commissioner's written notification of the decision, or to request a hearing according to chapter 48.04 RCW.

NEW SECTION. Sec. 17. All reasonable costs of any investigation or review by the commissioner of an association's plan of organization and operation, or any changes or modifications thereof, including the dissolution of a plan, shall be paid by the association before issuance of any approval required under this act.

NEW SECTION. Sec. 18. Sections 1 through 17 of this act shall constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 19. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 9, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 143

[Recrossed Substitute Senate Bill No. 3160]

EMPLOYEE SUGGESTION AWARDS—SCHOOL DISTRICTS

AN ACT Relating to employee suggestion awards; adding new sections to chapter 28A.02 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. The board of directors of any school district may establish and maintain an employee suggestion program to encourage and reward meritorious suggestions by certificated and classified school employees. The program shall be designed to promote efficiency or economy in

the performance of any function of the school district. Each board establishing an employee suggestion program shall establish procedures for the proper administration of the program.

NEW SECTION. Sec. 2. The board of directors of the school district shall make the final determination as to whether an employee suggestion award will be made and shall determine the nature and extent of the award. The award shall not be a regular or supplemental compensation program for all employees and the suggestion must, in fact, result in actual savings greater than the award amount. Any moneys which may be awarded to an employee as part of an employee suggestion program shall not be considered salary or compensation for the purposes of RCW 28A.58.095 or chapter 41.40 RCW.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act are added to chapter 28A.02 RCW.

NEW SECTION. Sec. 4. This act shall take effect on August 1, 1986.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 144

[Reengrossed Senate Bill No. 3527]

STUDENT/TEACHER RATIOS

AN ACT Relating to student teacher ratios; amending RCW 28A.41.130; and providing an effective date.

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

Sec. 1. Section 2, chapter 46, Laws of 1973 as last amended by section 30, chapter 3, Laws of 1983 and RCW 28A.41.130 are each amended to read as follows:

From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.48.010 to each school district of the state operating a program approved by the state board of education an amount which, when combined with an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school districts pursuant to RCW 28A.02.300 and 28A.02.310, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full time equivalent student enrolled, based upon one full school year of one hundred eighty days, except that for kindergartens one full

school year shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW 28A.58.754, as now or hereafter amended.

Basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW 28A.41.130 and 28A.41.140 to fund those program requirements identified in RCW 28A.58.754 in accordance with the formula and ratios provided in RCW 28A.41.140.

Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not greater than the ratio of students per classroom teacher in grades four and above for such district: PROVIDED, That for the purposes of this section, "classroom teacher" shall be defined as an instructional employee possessing at least a provisional certificate, but not necessarily employed as a certificated employee, whose primary duty is the daily educational instruction of students: PROVIDED FURTHER, That the state board of education shall adopt rules and regulations to insure compliance with the student/teacher ratio provisions of this section, and such rules and regulations shall allow for exemptions for those special programs and/or school districts which may be deemed unable to practicably meet the student/teacher ratio requirements of this section by virtue of a small number of students(~~(- PROVIDED, FURTHER, That these rules and regulations shall provide that any district that has a ratio of no greater than twenty-five students per classroom teacher in grades kindergarten through three shall be in conformance with this section))~~).

If a school district's basic education program fails to meet the basic education requirements enumerated in RCW 28A.41.130, 28A.41.140 and 28A.58.754, the state board of education shall require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured: PROVIDED, That the state board of education may waive this requirement in the event of substantial lack of classroom space.

~~((This section shall be effective September 1, 1982.))~~

NEW SECTION. Sec. 2. Section 1 of this act shall be effective September 1, 1987.

Passed the Senate February 12, 1986.

Passed the House March 6, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 145

[Engrossed Senate Bill No. 4481]

ABUSE OR NEGLECT OF CHILDREN OR DEPENDENT ADULTS—
REPORTING—DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
INFORMATION EXCHANGE AUTHORITY

AN ACT Relating to reporting of abuse or neglect; amending RCW 26.44.030; and prescribing penalties.

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

Sec. 1. Section 3, chapter 13, Laws of 1965 as last amended by section 2, chapter 259, Laws of 1985 and RCW 26.44.030 are each amended to read as follows:

(1) When any practitioner, professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, or employee of the department has reasonable cause to believe that a child or adult dependent person has suffered abuse or neglect, he shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040. The report shall be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.

(2) Any other person who has reasonable cause to believe that a child or adult dependent person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(3) The department, upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent person who has died or has had physical injury or injuries inflicted upon him other than by accidental means or who has been subjected to sexual abuse, shall report such incident in writing to the proper law enforcement agency.

(4) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent person who has died or has had physical injury or injuries inflicted upon him other than by accidental means, or who has been subjected to sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them.

(5) Any county prosecutor or city attorney receiving a report under subsection (4) of this section shall notify the victim, any persons the victim

requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(6) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(7) Persons or agencies exchanging information under subsection (6) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

Passed the Senate March 8, 1986.

Passed the House March 6, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 146

[Engrossed Substitute Senate Bill No. 4658]

HANDICAPPED PERSONS—ALTERNATIVES TO STATE RESIDENTIAL SCHOOLS

AN ACT Relating to alternatives to state residential schools; and amending RCW 72.33.125.

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

Sec. 1. Section 2, chapter 246, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 60, Laws of 1983 and RCW 72.33.125 are each amended to read as follows:

(1) In order to provide ongoing points of contact with the handicapped individual and his family so that they may have a place of entry for state services and return to the community as the need may appear; to provide a link between those individuals and services of the community and state operated services so that the individuals with handicapping conditions and their families may have access to the facilities best suited to them throughout the life of the individual; to offer viable alternatives to state residential school admission; and to encourage the placement of persons from state residential schools, the secretary of social and health services or his designee, pursuant to rules and regulations of the department, shall receive applications of persons for care, treatment, hospitalization, support, training,

or rehabilitation provided by state programs or services for the handicapped. Written applications shall be submitted in accordance with the following requirements:

(a) In the case of a minor person, the application shall be made by his parents or by the parent, guardian, limited guardian where so authorized, person or agency legally entitled to custody, which application shall be in the form and manner required by the department; and

(b) In the case of an adult person, the application shall be made by such person, by his or her guardian, or limited guardian where so authorized, or agency legally entitled to custody, which application shall be in the form and manner required by the department.

(2) Upon receipt of the written application the secretary shall determine if the individual to receive services has a handicapping condition as defined in RCW 72.33.020 qualifying him for services. In order to determine eligibility for services, the secretary may require a supporting affidavit of a physician or a clinical psychologist, or one of each profession, certifying that the individual is handicapped as herein defined.

(3) After determination of eligibility because of a handicapping condition, the secretary shall determine the necessary services to be provided for the individual. Individuals may be temporarily admitted, for a period not to exceed thirty days, to departmental residential facilities for observation prior to determination of needed services, where such observation is necessary to determine the extent and necessity of services to be provided.

(4) The secretary shall annually advise the persons specified in subsection (1) (a) or (b) of this section that they may, by application, propose program and placement alternatives for care, treatment, hospitalization, support, training, or rehabilitation of the handicapped person; PROVIDED, That current appropriations are sufficient to implement alternative services without reducing services to existing clients.

(5) Upon receipt of an application for alternative care, the secretary shall consult with the applicant and within ninety days of the application determine whether the following criteria are met:

(a) That the alternative plan proposes a less dependent program than the current services provide;

(b) That the alternative plan is appropriate under the goals and objectives of the individual program plan;

(c) That the alternative plan is not in violation of applicable state and federal law; and

(d) That necessary services can reasonably be made available.

(6) If the alternative plan meets all the criteria of subsection (5) of this section, it shall be implemented as soon as reasonable, but not later than one hundred twenty days after completion of the determination process, unless the secretary determines:

(a) That the alternative plan is more costly than the current plan; or

(b) Current appropriations are not sufficient to implement alternative services without reducing services to existing clients; or

(c) The alternative plan would take precedent over other priority placements.

~~(7) ((One year after April 21, 1983, the secretary shall forward to the appropriate legislative committees of the senate and house of representatives a report that includes a description of each application that was denied and the basis for denial.~~

~~(8) Within thirty days of April 21, 1983, the secretary shall submit to the appropriate legislative committees explicit criteria for determining whether an alternative plan is more costly than a current plan as required by subsection (6) of this section.)) The secretary shall by July 1st of each even-numbered year report to the legislature on the use of program options. The report shall include the number of persons applying for program options, the number denied and reasons, the number approved and implemented, the programs they transferred from and to, the costs and savings incurred, and the amounts and sources of funding used to finance program options services. The report shall also estimate use and funding for the next biennium.~~

Passed the Senate March 8, 1986.

Passed the House March 6, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 147

[Engrossed Substitute Senate Bill No. 4724]

WASHINGTON AWARD FOR EXCELLENCE IN EDUCATION PROGRAM

AN ACT Relating to excellence in education; adding new sections to chapter 28A.03 RCW; adding a new section to chapter 28B.15 RCW; and making an appropriation.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.03 RCW to read as follows:

Sections 2 through 8 of this act may be known and cited as the Washington award for excellence in education program act.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.03 RCW to read as follows:

(1) The superintendent of public instruction shall establish an annual award program for excellence in education to recognize teachers, principals, school district superintendents, and school boards for their leadership, contributions, and commitment to education. The program shall recognize annually:

(a) Three teachers from each congressional district of the state. One individual must be an elementary level teacher, one must be a junior high or middle school level teacher, and one must be a secondary level teacher;

(b) Three principals from each congressional district of the state. One individual must be an elementary building principal, one must be a junior high or middle school building principal, and one must be a secondary building principal;

(c) One school district superintendent from the state; and

(d) One school district board of directors from the state.

Not more than three teachers and three principals from each congressional district and one superintendent and one school board from the state may be recognized and receive awards in any school year.

(2) The awards for teachers and principals shall include certificates presented by the governor and the superintendent of public instruction at a public ceremony or ceremonies in appropriate locations.

(3) In addition to certificates under subsection (2) of this section, awards for teachers and principals shall include:

(a) A waiver of tuition and fees under section 6 of this act and a stipend not to exceed one thousand dollars to cover costs incurred in taking courses for which the tuition and fees have been waived under this subsection and section 6 of this act. The stipend shall not be considered compensation for the purposes of RCW 28A.58.095; or

(b) Teachers and principals, at their discretion, may elect to forego the waiver of tuition and fees and the stipend under subsection (3) of this section and apply for a grant not to exceed one thousand dollars, which grant shall be awarded under the provisions of section 7 of this act. Within one year of receiving the award for excellence in education, teachers and principals shall notify the superintendent of public instruction in writing of their decision to apply for a grant or to receive the waiver of tuition and fees and the stipend under subsection (3) of this section.

NEW SECTION. Sec. 3. The award for teachers under the Washington award for excellence in education program shall be named the "Christa McAuliffe Award, in honor and memory of Sharon Christa Corrigan McAuliffe." As the first teacher and private citizen selected nationally to voyage into space, Christa McAuliffe exemplified what is exciting and positive about the teaching profession. Her contributions within the scope of the nation's education system helped to show that education can and should be a vital and dynamic experience for all participants. Christa McAuliffe's chosen profession encompasses learning by discovery and her desire to make new discoveries was reflected by her participation in the nation's space program.

The selection of Christa McAuliffe as the first teacher in space was directly linked to Washington state in that superintendent of public instruction Dr. Frank Brouillet both appointed and served as a member of the national panel which selected Christa McAuliffe.

The tragic loss of the life of Christa McAuliffe on the flight of the space shuttle Challenger on January 28, 1986, will be remembered through the legacy she gave to her family, friends, relatives, students, colleagues, the education profession, and the nation: a model example of striving toward excellence.

NEW SECTION. Sec. 4. The awards for the superintendent and school board shall include:

(1) Certificates presented by the governor and the superintendent of public instruction at a public ceremony or ceremonies in appropriate locations;

(2) A grant to the superintendent not to exceed one thousand dollars, which grant shall be awarded under the provisions of section 8 of this act; and

(3) A grant to the school board not to exceed two thousand five hundred dollars, which grant shall be awarded under section 8 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.03 RCW to read as follows:

The superintendent of public instruction shall adopt rules under chapter 34.04 RCW to carry out the purposes of this chapter. These rules shall include establishing the selection criteria for the Washington award for excellence in education program. The superintendent of public instruction is encouraged to consult with teachers, principals, superintendents, and school board members in developing the selection criteria. Notwithstanding the provisions of section 2(1) (a) and (b) of this act, such rules may allow for the selection of individuals whose teaching or administrative duties, or both, may encompass multiple grade level or building assignments, or both.

NEW SECTION. Sec. 6. A new section is added to chapter 28B.15 RCW to read as follows:

Teachers and principals who have received an award for excellence in education under section 2 of this act shall have the tuition and fees waived for one full academic year at any state institution of higher education: PROVIDED, That the waiver shall begin to be used within three years after the award was received.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.03 RCW to read as follows:

Teachers and principals who have received an award for excellence in education under section 2 of this act shall be eligible to apply for an educational grant in lieu of receiving a waiver of tuition and fees and a stipend as

provided under section 2(3) of this act. The superintendent of public instruction shall award the grant as long as a written grant application is submitted to the superintendent of public instruction within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used.

NEW SECTION. Sec. 8. A new section is added to chapter 28A.03 RCW to read as follows:

The superintendent and school board who have received an award for excellence in education under section 4 of this act shall be eligible to apply for an educational grant. The superintendent of public instruction shall award the grant as long as a written grant application is submitted to the superintendent of public instruction within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used.

NEW SECTION. Sec. 9. The sum of sixty thousand five hundred dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the superintendent of public instruction for the purposes of this act.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 148

[Senate Bill No. 4749]

INSURANCE—INSURERS—REPORTING REQUIREMENTS

AN ACT Relating to insurance reporting; and amending RCW 48.05.380 and 48.05.390.

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

Sec. 1. Section 1, chapter 238, Laws of 1985 and RCW 48.05.380 are each amended to read as follows:

The insurance commissioner shall promulgate rules requiring insurers who are authorized to write (~~(malpractice)~~) property and casualty insurance in the state of Washington to record and report their Washington state loss and expense experiences and other data, as required by RCW 48.05.390.

Sec. 2. Section 2, chapter 238, Laws of 1985 and RCW 48.05.390 are each amended to read as follows:

(1) The report required by RCW 48.05.380 shall include the types of insurance written by the insurer for (~~(both commercial and personal)~~) policies pertaining to:

(a) Medical malpractice ((insurance)) for physicians and surgeons, hospitals, other health care professions, and other health care facilities individually;

(b) Products liability;

(c) Attorneys' malpractice;

(d) Architects' and engineers' malpractice;

(e) Municipal liability; and

(f) Day care center liability.

(2) The report shall include the following data by the type of insurance for the previous year ending on the thirty-first day of December:

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Net investment income, including net realized capital gain and losses, using appropriate estimates where necessary;

(d) Incurred claims, development as the sum of the following:

(i) Dollar amount of claims closed with payments; plus

(ii) Reserves for reported claims at the end of the current year; minus

(iii) Reserves for reported claims at the end of the previous year; plus

(iv) Reserves for incurred but not reported claims at the end of the current year; minus

(v) Reserves for incurred but not reported claims at the end of the previous year; plus

(vi) Reserves for loss adjustment expense at the end of the current year; minus

(vii) Reserves for loss adjustment expense at the end of the previous year.

(e) Actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, advertising, general office expenses, taxes, licenses and fees, and all other expenses;

(f) Net underwriting gain or loss;

(g) Net operation gain or loss, including net investment income;

(h) The number and dollar amount of claims closed with payment, by year incurred and the amount reserved for them;

(i) The number of claims closed without payment and the dollar amount reserved for those claims; and

(j) Other information requested by the insurance commissioner.

(3) The report shall be included as an addendum to the annual statement required by RCW 48.05.250.

Passed the Senate March 9, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 149

[Substitute Senate Bill No. 4814]

CHILD ABUSE PREVENTION—PHYSICAL DISCIPLINE—USE OF FORCE—
SCHOOL CURRICULUM MAY INCLUDE PREVENTION OF CHILD ABUSE

AN ACT Relating to child abuse prevention; amending RCW 9A.16.020, 28A.04.120, and 28A.05.010; and adding a new section to chapter 9A.16 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9A.16 RCW to read as follows:

It is the policy of this state to protect children from assault and abuse and to encourage parents, teachers, and their authorized agents to use methods of correction and restraint of children that are not dangerous to the children. However, the physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.

The following actions are presumed unreasonable when used to correct or restrain a child: (1) Throwing, kicking, burning, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) interfering with a child's breathing; (5) threatening a child with a deadly weapon; or (6) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks. The age, size, and condition of the child and the location of the injury shall be considered when determining whether the bodily harm is reasonable or moderate. This list is illustrative of unreasonable actions and is not intended to be exclusive.

Sec. 2. Section 9A.16.020, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 7, chapter 244, Laws of 1979 ex. sess. and RCW 9A.16.020 are each amended to read as follows:

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

(1) Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting ~~((him))~~ the officer and acting under ~~((his))~~ the officer's direction;

(2) Whenever necessarily used by a person arresting one who has committed a felony and delivering him or her to a public officer competent to receive him or her into custody;

(3) Whenever used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense

against his or her person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, in case the force is not more than is necessary;

(4) Whenever reasonably used by a person to detain someone who enters or remains unlawfully in a building or on real property lawfully in the possession of such person, so long as such detention is reasonable in duration and manner to investigate the reason for the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;

(5) ~~((Whenever used in a reasonable and moderate manner by a parent or his authorized agent, a guardian, master, or teacher in the exercise of lawful authority, to restrain or correct his child, ward, apprentice, or scholar;~~

(6)) Whenever used by a carrier of passengers or ((his)) the carrier's authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than is necessary to expel the offender with reasonable regard to ((his)) the offender's personal safety;

((7)) (6) Whenever used by any person to prevent a mentally ill, mentally incompetent, or mentally disabled person from committing an act dangerous to ((himself or another)) any person, or in enforcing necessary restraint for the protection ((of his person,)) or ((his)) restoration to health of the person, during such period only as is necessary to obtain legal authority for the restraint or custody of ((his)) the person.

Sec. 3. Section 28A.04.120, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 40, Laws of 1984 and RCW 28A.04.120 are each amended to read as follows:

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

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

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

(3) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.70.005.

(4) Accredited, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.02-.201, private schools carrying out a program for any or all of the grades one through twelve: PROVIDED, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

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

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

(7) Prepare with the assistance of the superintendent of public instruction a uniform series of questions, with the proper answers thereto for use in the correcting thereof, to be used in the examination of persons, as this code may direct, and prescribe rules and regulations for conducting any such examinations.

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

(9) Carry out board powers and duties relating to the organization and reorganization of school districts under chapter 28A.57 RCW.

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

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

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

Sec. 4. Section 28A.05.010, chapter 223, Laws of 1969 ex. sess. as amended by section 3, chapter 71, Laws of 1969 and RCW 28A.05.010 are each amended to read as follows:

All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, English grammar, physiology and hygiene with special reference to the effects of alcoholic stimulants and narcotics on the human system, the history of the United States, and such other studies as may be prescribed by rule or regulation of the state board of education. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise, and the worth of kindness to all living creatures. The prevention of child abuse may be offered as part of the curriculum in the common schools.

Passed the Senate March 12, 1986.

Passed the House March 12, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 150

[Engrossed Senate Bill No. 5033]

PRESCHOOL ACCREDITATION

AN ACT Relating to preschools; adding new sections to chapter 28A.34 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature intends to establish a process for public or nonpublic preschool programs to seek voluntarily accreditation, by the state board of education, of their child development and educational offerings. The purpose of the accreditation is to give parents and other consumers of preschool programs some standard to use to assess the quality of preschool programs.

NEW SECTION. Sec. 2. Unless the context clearly indicates otherwise, the definition used in this section shall apply throughout this chapter.

"Preschool" means educational programs that emphasize readiness skills and that enroll children of preschool age on a regular basis for four hours per day or less.

NEW SECTION. Sec. 3. The state board of education shall establish standards and procedures for the accreditation of all public and nonpublic preschools. Such schools are hereby encouraged to apply for such accreditation. In developing standards, the state board of education shall use nationally developed standards if, in the judgment of the state board of

education, such national standards adequately protect the children and parents who are the consumers of preschool education. If the state board of education establishes an advisory committee to assist in the development or selection of standards, at least one member of the advisory committee shall represent private preschools.

NEW SECTION. Sec. 4. No public or nonpublic entity may advertise that it has an accredited preschool unless its educational program has been accredited under this chapter. Any person with a pecuniary interest in the operation of a preschool who intentionally and falsely advertises that such preschool is accredited by the state board of education shall be guilty of a misdemeanor, the fine for which shall be no more than one hundred dollars. Each day that the violation continues shall be considered a separate violation.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act are each added to chapter 28A.34 RCW.

Passed the Senate March 10, 1986.

Passed the House March 4, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 151

[Substitute Senate Bill No. 5037]

SCHOOL DROPOUT STATISTICS—REPORTING REQUIREMENTS

AN ACT Relating to studying school dropout statistics; and creating a new section.

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

NEW SECTION. Sec. 1. (1) Beginning with the 1986-87 school year, school districts shall be required to report annually to the superintendent of public instruction:

(a) Dropout rates of students in each of the grades nine through twelve;

(b) Dropout rates for student populations, by ethnicity, in each of the grades nine through twelve; and

(c) The causes or reasons, or both, attributed to students for having dropped out of school in grades nine through twelve.

(2) The superintendent of public instruction shall adopt rules under chapter 34.04 RCW to assure uniformity in the information districts are required to report under subsection (1) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(3) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the

extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(4) Beginning with the 1987 legislative session, the superintendent of public instruction shall report annually to the legislature the information collected under subsection (1) of this section. Beginning with the 1991 legislative session, the report shall include the number of students in the ninth through twelfth grades who drop out of school over a four-year period.

Passed the Senate February 17, 1986.

Passed the House March 6, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 152

[Engrossed Substitute House Bill No. 1182]

SEAT BELTS

AN ACT Relating to motor vehicle safety restraints; adding a new section to chapter 46-61 RCW; adding a new section to chapter 4.24 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.61 RCW to read as follows:

(1) For the purposes of this section, the term "motor vehicle" includes:

(a) "Buses," meaning motor vehicles with motive power, except trailers, designed to carry more than ten passengers;

(b) "Multipurpose passenger vehicles," meaning motor vehicles with motive power, except trailers, designed to carry ten persons or less that are constructed either on a truck chassis or with special features for occasional off-road operation;

(c) "Passenger cars," meaning motor vehicles with motive power, except multipurpose passenger vehicles, motorcycles, or trailers, designed for carrying ten passengers or less; and

(d) "Trucks," meaning motor vehicles with motive power, except trailers, designed primarily for the transportation of property.

(2) This section only applies to motor vehicles that meet the manual seat belt safety standards as set forth in federal motor vehicle safety standard 208. This section does not apply to a vehicle occupant for whom no safety belt is available when all designated seating positions as required by federal motor vehicle safety standard 208 are occupied.

(3) Every person sixteen years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner.

(4) No person may operate a motor vehicle unless all passengers under the age of sixteen years are either wearing a safety belt assembly or are securely fastened into an approved child restraint device.

(5) During the period from the effective date of this act, to January 1, 1987, a person violating this section may be issued a written warning of the violation. After January 1, 1987, a person violating this section shall be issued a notice of traffic infraction under chapter 46.63 RCW. A finding that a person has committed a traffic infraction under this section shall be contained in the driver's abstract but shall not be available to insurance companies or employers.

(6) Failure to comply with the requirements of this section does not constitute negligence, nor may failure to wear a safety belt assembly be admissible as evidence of negligence in any civil action.

(7) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of Title 46 RCW or an equivalent local ordinance or some other offense.

(8) This section does not apply to an operator or passenger who possesses written verification from a licensed physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

(9) The commission on equipment may adopt rules exempting operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops from the requirement of wearing safety belts.

NEW SECTION. Sec. 2. A new section is added to chapter 4.24 RCW to read as follows:

A licensed physician shall not be liable for civil damages resulting directly or indirectly from providing, or refusing to provide, a written verification that a person under that physician's care is unable to wear an automotive safety belt.

NEW SECTION. Sec. 3. The traffic safety commission shall undertake a study of the effectiveness of section 1 of this act and shall report its finding to the legislative transportation committee by January 1, 1989.

Passed the House March 9, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 153

[House Bill No. 1499]

ALCOHOL BREATH TESTING

AN ACT Relating to alcohol breath testing; and amending RCW 9.41.098, 46.61.502, 46.61.504, 46.61.506, 46.20.308, and 88.02.095.

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

Sec. 1. Section 6, chapter 232, Laws of 1983 and RCW 9.41.098 are each amended to read as follows:

(1) The superior courts and the courts of limited jurisdiction of the state may order forfeiture of a firearm which is proven to be:

(a) Found concealed on a person not authorized by RCW 9.41.060 or 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute defense to forfeiture if the person possessed a valid Washington concealed pistol license within the preceding two years and has not become ineligible for a concealed pistol license in the interim. Before the firearm may be returned, the person must pay the past due renewal fee and the current renewal fee;

(b) Commercially sold to any person without an application as required by RCW 9.41.090;

(c) Found in the possession or under the control of a person at the time the person committed or was arrested for committing a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the uniform controlled substances act, chapter 69.50 RCW;

(d) Found concealed on a person who is in any place in which a concealed pistol license is required, and who is under the influence of any drug or under the influence of intoxicating liquor, having ~~((0.10 percent or more by weight of alcohol in his blood;))~~ 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by ~~((chemical))~~ analysis of his breath, blood, or other bodily substance;

(e) Found in the possession of a person prohibited from possessing the firearm under RCW 9.41.040;

(f) Found in the possession of a person free on bail or personal recognition pending trial, appeal, or sentencing for a crime of violence or a crime in which a firearm was used or displayed, except that violations of Title 77 RCW shall not result in forfeiture under this section;

(g) Found in the possession of a person found to have been mentally incompetent while in possession of a firearm when apprehended or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

(h) Known to have been used or displayed by a person in the violation of a proper written order of a court of general jurisdiction; or

(i) Known to have been used in the commission of a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the uniformed controlled substances act, chapter 69.50 RCW.

(2) Upon order of forfeiture, the court in its discretion shall order destruction of any firearm that is illegal for any person to possess, retention of the firearm as evidence, appropriate use by a law enforcement agency in the state, donation to a historical museum, or sale at a public auction to a commercial seller. The proceeds from any sale shall be divided as follows: The local jurisdiction shall retain its costs, including actual costs of storage and sale, and shall forward the remainder to the state game commission for use in its firearms training program pursuant to RCW 77.32.155. If the court orders delivery to a law enforcement agency and the agency no longer requires use of the firearm, the agency shall dispose of the firearm in a manner which is consistent with this subsection.

(3) The court shall order the firearm returned to the owner upon a showing that there is no probable cause to believe a violation of subsection (1) of this section existed or the firearm was stolen from the owner or the owner neither had knowledge of nor consented to the act or omission involving the firearm which resulted in its forfeiture.

(4) A law enforcement officer of the state or of any county or municipality may confiscate a firearm found to be in the possession of a person under circumstances specified in subsection (1) of this section. After confiscation, the firearm shall not be surrendered except: (a) To the prosecuting attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section.

Sec. 2. Section 1, chapter 176, Laws of 1979 ex. sess. and RCW 46-.61.502 are each amended to read as follows:

A person is guilty of driving while under the influence of intoxicating liquor or any drug if he drives a vehicle within this state while:

(1) He has ~~((0.10 percent or more by weight of alcohol in his blood))~~ 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by ((chemical)) analysis of his breath, blood, or other bodily substance made under RCW 46.61.506 as now or hereafter amended; or

(2) He is under the influence of or affected by intoxicating liquor or any drug; or

(3) He is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

Sec. 3. Section 2, chapter 176, Laws of 1979 ex. sess. and RCW 46-.61.504 are each amended to read as follows:

A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if he has actual physical control of a vehicle within this state while:

(1) He has ~~((a 0.10 percent or more by weight of alcohol in his blood))~~ 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by ~~((chemical))~~ analysis of his breath, blood, or other bodily substance made under RCW 46.61.506, as now or hereafter amended; or

(2) He is under the influence of or affected by intoxicating liquor or any drug; or

(3) He is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, he has moved the vehicle safely off the roadway.

Sec. 4. Section 3, chapter 1, Laws of 1969 as last amended by section 5, chapter 176, Laws of 1979 ex. sess. and RCW 46.61.506 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the amount of alcohol in the person's blood or breath at the time alleged as shown by ~~((chemical))~~ analysis of his blood, breath, or other bodily substance is less than ~~((0.10 percent by weight of alcohol in the person's blood))~~ 0.10 grams of alcohol per two hundred ten liters of the person's breath, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2) ~~((Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred cubic centimeters of blood.))~~ The breath analysis shall be based upon grams of alcohol per two hundred ten liters of breath. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) ~~((Chemical))~~ Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such

analyses, and to-issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic content may be performed only by a physician, a registered nurse, or a qualified technician. This limitation shall not apply to the taking of breath specimens.

(5) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer ~~((a chemical test or))~~ one or more tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(6) Upon the request of the person who shall submit to a ~~((chemical))~~ test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or his attorney.

Sec. 5. Section 11, chapter 260, Laws of 1981 as last amended by section 3, chapter 407, Laws of 1985 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 ~~((chemical))~~ 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 against him or her in a subsequent criminal trial.

(3) Except as provided in this ~~((subsection and subsection (4) of this section, the chemical))~~ 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 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 ~~((chemical))~~ test 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 had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that refusal would result in the revocation of his privilege to drive, shall revoke his 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 right to a hearing, specifying the steps he must take to obtain a hearing. Within ten days after receiving such notice 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 upon the public

highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation of his 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 in which he or she resides, or, if a non-resident of this state, where the charge arose, 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. 6. Section 2, chapter 267, Laws of 1985 and RCW 88.02.095 are each amended to read as follows:

(1) It shall be unlawful for any person to operate a vessel in a negligent manner, except a commercial vessel which has or is required to have a valid marine document as a vessel of the United States and is operating in the navigable waters of the United States. For the purpose of this section, to "operate in a negligent manner" shall be construed to mean the operation of a vessel in such manner as to endanger or be likely to endanger any persons or property.

(2) A person is guilty of operating a vessel while under the influence of intoxicating liquor or any drug if the person operates a vessel within this state while:

(a) The person has ~~((0.10 percent or more by weight of alcohol in his blood))~~ 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by ~~((chemical))~~ analysis of the person's breath, blood, or other bodily substance made under RCW 46.61.506; or

(b) The person is under the influence of or affected by intoxicating liquor or any drug; or

(c) The person is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section. A person

cited under this subsection may upon request be given a breath test for blood alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.

(3) For the purposes of this section, "vessel" means any watercraft used or capable of being used as a means of transportation on the water.

(4) For the purpose of this section, "vessel operator" means a person who is in actual physical control of a vessel.

(5) A violation of this section is a misdemeanor, punishable by up to ninety days in jail and by a fine of not more than one thousand dollars. In addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 154

[Engrossed Substitute House Bill No. 355]

STATE PATROL—RETIREMENT SERVICE CREDIT

AN ACT Relating to the Washington state patrol; amending RCW 43.43.130; adding a new section to chapter 43.43 RCW; adding a new section to chapter 41.40 RCW; and declaring an emergency.

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

Sec. 1. Section 43.43.130, chapter 8, Laws of 1965 as last amended by section 2, chapter 81, Laws of 1983 and RCW 43.43.130 are each amended to read as follows:

(1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later reenter, he shall be treated in all respects as a new employee: PROVIDED, That a member who reenters or has reentered service within ten years from

the date of his termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus earned interest, which restoration must be completed within four years after resumption of service, be returned to the status of membership he earned at the time of termination.

(3) (a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in subsection (3)(b) of this section.

(b) Within sixty days of notificati.. of a member's cadet service transfer as provided in subsection (3)(a) of this section, the department of retirement systems shall transfer the employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(4) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his service in such armed forces credited to him as a member of the retirement system: PROVIDED, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency.

(5) ((~~a~~)) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, and who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system within a period ending June 30, 1985, or, if not an active employee on July 1, 1983, within one year of returning to commissioned service, whichever date is later. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system which constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in this subsection for making the elective transfer.

(6) An active employee of the Washington state patrol may establish up to six months' retirement service credit in the state patrol retirement system for any period of employment by the Washington state patrol as a

cadet if service credit for such employment was not previously established in the public employees' retirement system, subject to the following:

(a) Certification by the patrol that such employment as a cadet was for the express purpose of receiving on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper.

(b) Payment by the member of employee contributions in the amount of seven percent of the total salary paid for each month of service to be established, plus interest at seven percent from the date of the probationary service to the date of payment. This payment shall be made by the member no later than July 1, 1988.

(c) A written waiver by the member of the member's right to ever establish the same service in the public employees' retirement system at any time in the future.

~~((b))~~ (7) The department of retirement systems shall make the requested transfer subject to the conditions specified in ~~((a) of this)~~ subsection (5) of this section or establish additional credit as provided in subsection (6) of this section. Employee contributions and credited interest transferred shall be credited to the employee's account in the Washington state patrol retirement system.

NEW SECTION. Sec. 2. A new section is added to chapter 43.43 RCW to read as follows:

Former members of the retirement system established under this chapter who are currently members of the retirement system governed by chapter 41.40 RCW are permitted to reestablish service credit with the system subject to the following:

(1) The former member must have separated and withdrawn contributions from the system prior to January 1, 1966, and not returned to membership since that date;

(2) The former member must have been employed by the department of licensing, or its predecessor agency, in a capacity related to drivers' license examining within thirty days after leaving commissioned status with the state patrol; and

(3) The former member must make payment to the system of the contributions withdrawn with interest at the rate set by the director from the date of withdrawal to the date of repayment. Such payment must be made no later than June 30, 1986.

NEW SECTION. Sec. 3. A new section is added to chapter 41.40 RCW to read as follows:

Any active member of this system who was a member of the retirement system governed by chapter 43.43 RCW may transfer service credit reestablished under section 2 of this act to this system.

Upon receipt of any application for a transfer under this section, the department shall cause a transfer of the employee's funds from the state patrol retirement system to the retirement system under this chapter. Such

service shall be credited as though earned in this system except that only one month's service shall be allowed for any one calendar month. The application for a transfer under this section shall be made by the member no later than June 30, 1986.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 8, 1986.

Passed the Senate February 26, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 155

[Engrossed Substitute House Bill No. 1331]

CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS

AN ACT Relating to salaries of public officials; amending RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, 43.03.010, 43.03.028, 34.12.100, 42.17.370, 43.03.040, and 43.105.045; adding new sections to chapter 43.03 RCW; repealing RCW 43.03.045 and 43.03.047; 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 43.03 RCW to read as follows:

The legislature hereby declares it to be the policy of this state to base salaries of elected state officials on realistic standards in order that such officials may be paid according to the duties of their offices and so that citizens of the highest quality may be attracted to public service. It is the purpose of sections 1 through 3 of this act to effectuate this policy by creating a citizens' commission to establish proper salaries for such officials, thus removing political considerations in fixing the appropriateness of the amount of such salaries.

NEW SECTION. Sec. 2. A new section is added to chapter 43.03 RCW to read as follows:

There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of fifteen members appointed by the governor as provided in this section.

(1) Eight of the fifteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the general election held in November, 1986, and thereafter from among those registered voters eligible to vote at the time of the selection. One member shall be selected from each congressional district. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for

notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission.

(2) The remaining seven of the fifteen commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chairperson of the state personnel board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. Except as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987, and not later than the fifteenth day of February every four years thereafter.

(4) Members shall hold office for terms of four years, and no person may be appointed to more than two such terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of chapter 42.17 RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse, siblings, children, or dependent relative of the official, employee, or lobbyist whether or not living in the household of the official, employee, or lobbyist.

(6) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided.

NEW SECTION. Sec. 3. A new section is added to chapter 43.03 RCW to read as follows:

(1) The citizens' commission on salaries for elected officials shall study the relationship of salaries to the duties of members of the legislature, all elected officials of the executive branch of state government, and all judges of the supreme court, court of appeals, superior courts, and district courts, and shall fix the salary for each respective position.

(2) Except as provided otherwise in this section, the commission shall be solely responsible for its own organization, operation, and action and shall enjoy the fullest cooperation of all state officials, departments, and agencies.

(3) Members of the commission shall receive no compensation for their services, but shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The members of the commission shall elect a chairperson from among their number. The commission shall set a schedule of salaries by an affirmative vote of not less than eight members of the commission.

(5) The commission shall file its initial schedule of salaries for the elected officials with the secretary of state no later than the first Monday in June, 1987, and shall file a schedule biennially thereafter. Each such schedule shall be filed in legislative bill form, shall be assigned a chapter number and published with the session laws of the legislature, and shall be codified by the statute law committee. The signature of the chairperson of the commission shall be affixed to each schedule submitted to the secretary of state. The chairperson shall certify that the schedule has been adopted in accordance with the provisions of state law and with the rules, if any, of the commission. Such schedules shall become effective ninety days after the filing thereof, except as provided in Article XXVIII, section 1 of the state Constitution. State laws regarding referendum petitions shall apply to such schedules to the extent consistent with Article XXVIII, section 1 of the state Constitution.

(6) Prior to the filing of any salary schedule, the commission shall hold no fewer than four public hearings thereon within the four months immediately preceding the filing.

(7) All meetings, actions, hearings, and business of the commission shall be subject in full to the open public meetings act, chapter 42.30 RCW.

(8) Salaries of the officials referred to in subsection (1) of this section that are in effect on January 12, 1987, shall continue until modified by the commission under this section.

Sec. 4. Section 401, chapter 258, Laws of 1984 and RCW 2.04.092 are each amended to read as follows:

The annual salary of justices of the supreme court shall be (~~prescribed by the legislature in the biennial omnibus appropriations act~~) established by the Washington citizens' commission on salaries for elected officials. No salary warrant may be issued to a justice of the supreme court until the justice files with the state treasurer an affidavit that no matter referred to

the justice for opinion or decision has been uncompleted or undecided for more than six months.

Sec. 5. Section 402, chapter 258, Laws of 1984 and RCW 2.06.062 are each amended to read as follows:

The annual salary of the judges of the court of appeals shall be ~~((pre-scribed by the legislature in the biennial omnibus appropriations act))~~ established by the Washington citizens' commission on salaries for elected officials. No salary warrant may be issued to any judge until the judge files with the state treasurer an affidavit that no matter referred to the judge for opinion or decision has been uncompleted for more than six months.

Sec. 6. Section 403, chapter 258, Laws of 1984 and RCW 2.08.092 are each amended to read as follows:

The annual salary of the judges of the superior court shall be ~~((pre-scribed by the legislature in the biennial omnibus appropriations act))~~ established by the Washington citizens' commission on salaries for elected officials.

Sec. 7. Section 100, chapter 299, Laws of 1961 as last amended by section 1, chapter 7, Laws of 1985 and RCW 3.58.010 are each amended to read as follows:

The annual salary of each full time district court judge shall be ~~((ninety percent of the salary of a judge of a superior court: PROVIDED, That in cities having a population in excess of four hundred thousand, the city which pays the salary may increase such salary of its municipal judges to an amount not more than the salary paid the superior court judges in the county in which the court is located: PROVIDED FURTHER, That))~~ established by the Washington citizen's commission on salaries for elected officials. A member of the legislature whose term of office is partly coextensive with or extends beyond the present term of office of any of the officials whose salary is increased by virtue of the provisions of RCW 43.03.010, 2.04.092, 2.06.062, 2.08.092, and 3.58.010 shall be eligible to be appointed or elected to any of the offices the salary of which is increased hereby but he shall not be entitled to receive such increased salary until after the expiration of his present term of office and his subsequent election or reelection to the office to which he was appointed or elected respectively during his term of office as legislator.

Sec. 8. Section 43.03.010, chapter 8, Laws of 1965 as last amended by section 3, chapter 29, Laws of 1983 1st ex. sess. and RCW 43.03.010 are each amended to read as follows:

~~((1) Effective July 1, 1979, the annual salaries of the following named state elected officials shall be: Governor, fifty-eight thousand nine hundred dollars; lieutenant governor, twenty-six thousand eight hundred dollars plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that~~

the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state, twenty-eight thousand nine hundred dollars; state treasurer, thirty-four thousand eight hundred dollars; state auditor, thirty-four thousand eight hundred dollars; attorney general, forty-four thousand dollars; superintendent of public instruction, forty thousand dollars; commissioner of public lands, forty thousand dollars; state insurance commissioner, thirty-four thousand eight hundred dollars. Members of the legislature shall receive for their service nine thousand eight hundred dollars per annum, effective January 8, 1979, and in addition, ten cents per mile for travel to and from legislative sessions.

(2) ~~Effective July 1, 1980,)~~ The annual salaries of the following named state elected officials shall be prescribed by the Washington citizens' commission on salaries for elected officials: Governor((, sixty-three thousand dollars)); lieutenant governor((, twenty-eight thousand six hundred dollars)); PROVIDED, That in arriving at the annual salary of the lieutenant governor the commission shall prescribe a fixed amount plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state((, thirty-one thousand dollars)); state treasurer((, thirty-seven thousand two hundred dollars)); state auditor((, thirty-seven thousand two hundred dollars)); attorney general((, forty-seven thousand one hundred dollars)); superintendent of public instruction((, forty-two thousand eight hundred dollars)); commissioner of public lands((, forty-two thousand eight hundred dollars)); and state insurance commissioner((, thirty-seven thousand two hundred dollars)). Members of the legislature shall receive for their service ((eleven thousand two hundred dollars)) per annum((, effective January 12, 1981, twelve thousand dollars per annum effective January 1, 1982, twelve thousand eight hundred fifty dollars effective January 10, 1983, and thirteen thousand seven hundred fifty dollars effective January 1, 1984)) the amount prescribed by the Washington citizens' commission on salaries for elected officials; and in addition, reimbursement for mileage for travel to and from legislative sessions as provided in RCW 43.03.060.

Sec. 9. Section 20, chapter 87, Laws of 1980 as amended by section 21, chapter 163, Laws of 1982 and RCW 43.03.028 are each amended to read as follows:

(1) There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the ((president of Washington State University)) chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the State Personnel

Board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

(2) The committee shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the capitol historical association and museum; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state finance committee; the state library; the traffic safety commission; the horse racing commission; the commission for vocational education; the advisory council on vocational education; the public disclosure commission; the hospital commission; the state conservation commission; the commission on Mexican-American affairs; the commission on Asian-American affairs; the state board for volunteer firemen; the urban arterial board; the data processing authority; the public employees relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

~~(3) ((The committee shall also make a study of the duties and salaries of all state elective officials, including members of the supreme, appellate, superior, and district courts and members of the legislature and report to the governor and the president of the senate and the speaker of the house not later than sixty days prior to the convening of each regular session of the legislature during an odd-numbered year its recommendation for the salaries to be established for each position. Copies of the committee report to the governor shall be provided to the appropriate standing committees of the house and senate upon request.~~

~~(4))~~ Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060.

Sec. 10. Section 10, chapter 67, Laws of 1981 and RCW 34.12.100 are each amended to read as follows:

The chief administrative law judge shall be paid a salary fixed by the governor after recommendation of the state committee on agency officials' salaries. The salaries of administrative law judges appointed under the terms of this chapter shall be determined by the chief administrative law judge after recommendation of the state committee on agency officials' salaries.

Sec. 11. Section 37, chapter 1, Laws of 1973 as last amended by section 11, chapter 367, Laws of 1985 and RCW 42.17.370 are each amended to read as follows:

The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.04 RCW;

(2) Appoint and set, within the limits established by the committee on agency officials' salaries under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies,

counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only 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 period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.04 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985.

Sec. 12. Section 43.03.040, chapter 8, Laws of 1965 as last amended by section 2, chapter 127, Laws of 1977 ex. sess. and RCW 43.03.040 are each amended to read as follows:

The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(2) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the committee on agency officials' salaries.

Sec. 13. Section 8, chapter 219, Laws of 1973 1st ex. sess. and RCW 43.105.045 are each amended to read as follows:

The executive director of the authority shall be responsible for carrying into effect the authority's orders and rules and regulations. The director shall also be authorized to employ such staff as is necessary, including but not limited to two assistant executive directors and a confidential secretary. The director shall be paid such salary as shall be deemed reasonable by the state committee on agency officials' salaries.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

- (1) Section 4, chapter 43, Laws of 1970 ex. sess. and RCW 43.03.045;
- (2) Section 6, chapter 43, Laws of 1970 ex. sess. and RCW 43.03.047.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 16. This act shall take effect on January 1, 1987, if the proposed amendment to Article XXVIII of the state Constitution establishing an exclusive process for changes in the salaries of members of the legislature and other elected state officials is validly submitted and is approved and ratified by the voters at a general election held in November, 1986. If such proposed amendment is not so submitted and approved and ratified, this act shall be null and void in its entirety.

Passed the House March 12, 1986.

Passed the Senate March 10, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 156

[Substitute House Bill No. 1865]

ELECTRICIANS AND ELECTRICAL INSTALLATIONS

AN ACT Relating to electricians and electrical installations; amending RCW 19.28.005, 19.28.010, 19.28.060, 19.28.070, 19.28.120, 19.28.123, 19.28.125, 19.28.180, 19.28.190, 19.28.310, 19.28.350, 19.28.360, 19.28.540, 19.28.550, 19.28.570, 19.28.610, and 19.28.620; repealing RCW 19.28.380 and 19.28.590; and prescribing penalties.

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

Sec. 1. Section 1, chapter 206, Laws of 1983 and RCW 19.28.005 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Administrator" means a person designated by an electrical contractor to supervise electrical work and electricians in accordance with the rules adopted under this chapter.

(2) "Advisory board" means the electrical advisory board under RCW 19.28.065.

(3) "Board of electrical examiners" means the board of electrical examiners under RCW 19.28.123.

(4) "Chapter" means chapter 19.28 RCW.

(5) "Department" means the department of labor and industries.

(6) "Director" means the director of the department or the director's designee.

(7) "Electrical construction trade" includes but is not limited to installing or maintaining electrical wires and equipment that are used for light, heat, or power and installing and maintaining remote control, signaling, power limited, or communication circuits or systems.

(8) "Electrical contractor" means a person, firm, partnership, corporation, or other entity that offers to undertake, undertakes, submits a bid for, or does the work of installing or maintaining wires or equipment that convey electrical current.

(9) "Equipment" means any equipment or apparatus that directly uses, conducts, or is operated by electricity but does not mean plug-in household appliances.

(10) "Journeyman electrician" means a person who has been issued a journeyman electrician certificate of competency by the department.

(11) "Specialty electrician" means a person who has been issued a specialty electrician certificate of competency by the department.

Sec. 2. Section 1, chapter 169, Laws of 1935 as last amended by section 2, chapter 206, Laws of 1983 and RCW 19.28.010 are each amended to read as follows:

(1) All wires and equipment, and installations thereof, that convey electric current and installations of equipment to be operated by electric

current, in, on, or about buildings or structures, except for telephone, telegraph, radio, and television wires and equipment, and television antenna installations, signal strength amplifiers, and coaxial installations pertaining thereto shall be in strict conformity with this chapter, the statutes of the state of Washington, and the rules issued by the department, and shall be in conformity with approved methods of construction for safety to life and property. All wires and equipment that fall within section 90.2(b)(5) of the National Electrical Code, 1981 edition, are exempt from the requirements of this chapter. The regulations and articles in the National Electrical Code, as approved by the American Standards Association, and in the national electrical safety code, as approved by the American Standards Association, and other installation and safety regulations approved by the American Standards Association, as modified or supplemented by rules issued by the department in furtherance of safety to life and property under authority hereby granted, shall be prima facie evidence of the approved methods of construction. All materials, devices, appliances, and equipment used in such installations shall be of a type that conforms to applicable standards or be indicated as acceptable by the established standards of the Underwriters' Laboratories, Inc. or other ((equivalently national recognized authorities)) electrical product testing laboratories which are accredited by the department.

(2) This chapter shall not limit the authority or power of any city or town to enact and enforce under authority given by law, any ordinance, rule, or regulation requiring an equal, higher, or better standard of construction and an equal, higher, or better standard of materials, devices, appliances, and equipment than that required by this chapter: PROVIDED, That such city or town shall require that its electrical inspectors meet the qualifications provided for state electrical inspectors in accordance with RCW 19.28.070. In a city or town having an equal, higher, or better standard the installations, materials, devices, appliances, and equipment shall be in accordance with the ordinance, rule, or regulation of the city or town.

(3) Nothing in this chapter may be construed as permitting the connection of any conductor of any electric circuit with a pipe that is connected with or designed to be connected with a waterworks piping system, without the consent of the person or persons legally responsible for the operation and maintenance of the waterworks piping system.

Sec. 3. Section 10, chapter 169, Laws of 1935 as last amended by section 4, chapter 206, Laws of 1983 and RCW 19.28.060 are each amended to read as follows:

Prior to January 1st of each year, the director shall obtain an authentic copy of the national electrical code as approved by the American Standards Association, and an authentic copy of any applicable regulations and standards of the Underwriters' Laboratories, Inc., or other ((nationally recognized)) electrical product testing laboratory which is accredited by the

department prescribing rules, regulations, and standards for electrical materials, devices, appliances, and equipment, including any modifications and changes that have been made during the previous year in the rules, regulations, and standards. The department, after consulting with the advisory board and receiving the board's recommendations, shall adopt reasonable rules in furtherance of safety to life and property. All rules shall be kept on file by the department. Compliance with the rules shall be prima facie evidence of compliance with this chapter. The department upon request shall deliver to all persons, firms, partnerships, corporations, or other entities licensed under this chapter a copy of the rules.

Sec. 4. Section 3, chapter 169, Laws of 1935 as last amended by section 61, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 19.28.070 are each amended to read as follows:

The director of labor and industries of the state of Washington and the officials of all incorporated cities and towns where electrical inspections are required by local ordinances shall have power and it shall be their duty to enforce the provisions of this chapter in their respective jurisdictions. The director of labor and industries shall have power to appoint an electrical inspector, and such assistant inspectors as he shall deem necessary to assist him in the performance of his duties. All electrical inspectors appointed by the director of labor and industries shall ((be)) have not less than four years experience as journeyman electricians ((of not less than four years experience)) in installing and maintaining electrical equipment, ((or four years experience as electrical inspectors for a municipality;)) or two years electrical training in a college of electrical engineering of recognized standing~~((;))~~ and ((two)) four years continuous practical electrical experience in installation work, or four years of electrical training in a college of electrical engineering of recognized standing and two years continuous practical electrical experience in electrical installation work. Such state inspectors shall be paid such salary as the director of labor and industries shall determine, together with their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. The expenses of the director of labor and industries and the salaries and expenses of state inspectors incurred in carrying out the provisions of this chapter shall be paid entirely out of the electrical license fund, upon vouchers approved by the director of labor and industries.

Sec. 5. Section 1, chapter 30, Laws of 1969 as last amended by section 5, chapter 206, Laws of 1983 and RCW 19.28.120 are each amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to convey electric current, or installing or maintaining equipment to be operated by electric current as it pertains to

the electrical industry, without having an unrevoked, unsuspended, and unexpired electrical contractor license, issued by the department in accordance with this chapter. All electrical contractor licenses expire (~~on the thirty-first day of December~~) twenty-four calendar months following the day of their issue. The department may issue an electrical contractors license for a period of less than twenty-four months only for the purpose of equalizing the number of electrical contractor licenses which expire each month. Application for an electrical contractor license shall be made in writing to the department, accompanied by the required fee. The application shall state the name and address of the applicant; in case of firms or partnerships, the names of the individuals composing the firm or partnership; in case of corporations, the names of the managing officials thereof; the location of the place of business of the applicant and the name under which the business is conducted; and whether a general or specialty electrical contractor license is sought and, if the latter, the type of specialty. Electrical contractor specialties include, but are not limited to: Residential, domestic appliances, pump and irrigation, limited energy system, signs, (~~and~~) nonresidential maintenance, and a combination specialty. A general electrical contractor license shall grant to the holder the right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electric current, and installing or maintaining equipment, or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current, in the state of Washington. A specialty electrical contractor license shall grant to the holder a limited right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electrical current, and installing or maintaining equipment; or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current in the state of Washington as expressly allowed by the license.

(2) The application for a contractor license shall be accompanied by a bond in the sum of (~~three~~) four thousand dollars with the state of Washington named as obligee in the bond, with good and sufficient surety, to be approved by the department. The bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, suspends the license issued to the principal until a new bond has been filed and approved as provided in this section. Upon approval of a bond, the department shall on the next business day deposit the fee accompanying the application in the electrical license fund and shall file the bond in the office. The department shall upon request furnish to any person, firm, partnership, corporation, or other entity a certified copy of the bond upon the payment of a fee that the department shall set by rule. The fee shall cover but not exceed the cost of furnishing the certified copy. The bond shall be conditioned that in any installation or maintenance

of wires or equipment to convey electrical current, and equipment to be operated by electrical current, the principal will comply with the provisions of this chapter and with any electrical ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(2) that is in effect at the time of entering into a contract. The bond shall be conditioned further that the principal will pay for all labor, including employee benefits, and material furnished or used upon the work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm, partnership, corporation, or other entity due to a failure of the principal to make the installation or maintenance in accordance with this chapter or any applicable ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(2). In lieu of the surety bond required by this section the license applicant may file with the department a cash deposit or other negotiable security acceptable to the department. If the license applicant has filed a cash deposit, the department shall deposit the funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from the account.

(3) The department shall issue general or specialty electrical contractor licenses to applicants meeting all of the requirements of this chapter. The provisions of this chapter relating to the licensing of any person, firm, partnership, corporation, or other entity including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee therefor, are exclusive, and no political subdivision of the state of Washington may require or issue any licenses or bonds or charge any fee for the same or a similar purpose. No person, firm, partnership, corporation, or other entity holding more than one specialty contractor license under this chapter may be required to pay an annual fee for more than one such license or to post more than one (~~three~~) four thousand dollar bond, equivalent cash deposit, or other negotiable security.

(4) To obtain a general or specialty electrical contractor license the applicant must designate an individual who currently possesses an administrator's certificate as a general electrical contractor administrator or as a specialty electrical contractor administrator in the specialty for which application has been made. Administrator certificate specialties include but are not limited to: Residential, domestic, appliance, pump and irrigation, limited energy system, signs, (~~and~~) nonresidential maintenance, and combination specialty. To obtain an administrator's certificate an individual must pass an examination as set forth in RCW 19.28.123 unless the applicant was a licensed electrical contractor at any time during 1974. Applicants who were electrical contractors licensed by the state of Washington at any time during 1974 are entitled to receive a general electrical contractor administrator's certificate without examination if the applicants apply prior to January 1, 1984. The board of electrical examiners shall certify to the

department the names of all persons who are entitled to either a general or specialty electrical contractor administrator's certificate.

Sec. 6. Section 2, chapter 188, Laws of 1974 ex. sess. as last amended by section 57, chapter 287, Laws of 1984 and RCW 19.28.123 are each amended to read as follows:

There is hereby created a board of electrical examiners consisting of nine members to be appointed by the governor. It shall be the purpose and function of this board to establish in addition to a general electrical contractors' license, such classifications of specialty electrical contractors' licenses as it deems appropriate with regard to individual sections pertaining to state adopted codes in chapter 19.28 RCW. In addition, it shall be the purpose and function of this board to establish and administer written examinations for general electrical contractors' qualifying certificates and the various specialty electrical contractors' qualifying certificates. Examinations shall be designed to reasonably insure that general and specialty electrical contractor's qualifying certificate holders are competent to engage in and supervise the work covered by this statute and their respective licenses. The examinations shall include questions from the following categories to assure proper safety and protection for the general public: (1) Safety, (2) state electrical code, and (3) electrical theory. The department with the consent of the board of electrical examiners shall be permitted to enter into a contract with a professional testing agency to develop, administer, and score these examinations. It shall be the further purpose and function of this board to advise the director as to the need of additional electrical inspectors and compliance officers to be utilized by the director on either a full-time or part-time employment basis and to carry out the duties enumerated in RCW 19.28.510 through 19.28.620 as well as generally advise the department on all matters relative to RCW 19.28.510 through 19.28.620. Meetings of the board shall be held quarterly on the first Monday of February, May, August, and November of each year. Each member of the board shall be compensated in accordance with RCW 43.03.240, and each member shall also receive travel expenses as provided in RCW 43.03.050 and 43.03.060, which shall be paid out of the electrical license fund, upon vouchers approved by the director of labor and industries.

Sec. 7. Section 4, chapter 188, Laws of 1974 ex. sess. as last amended by section 6, chapter 206, Laws of 1983 and RCW 19.28.125 are each amended to read as follows:

(1) Each applicant for an electrical contractor's license, other than an individual, shall designate a supervisory employee or member of the firm to take the required administrator's examination. Effective July 1, 1987, a supervisory employee designated as the administrator shall be a full-time supervisory employee. This person shall be designated as administrator under the license. No person may qualify as administrator for more than one contractor. If the relationship of the administrator with the electrical contractor

is terminated, the contractor's license is void within ninety days unless another administrator is qualified by the board of electrical examiners. However, if the administrator dies, the contractor's license is void within one hundred eighty days unless another administrator is qualified by the board of electrical examiners. A certificate issued under this section is valid for ~~((the calendar year of issuance))~~ two years from the nearest birthdate of the administrator, unless revoked or suspended, and further is nontransferable. The certificate may be renewed for a two-year period without examination by appropriate application unless the certificate has been revoked, suspended, or not renewed within ninety days after the expiration date. If the certificate is not renewed before the expiration date, the individual shall pay twice the usual fee. An individual holding more than one administrator's certificate under this chapter shall not be required to pay annual fees for more than one certificate. A person may take the administrator's test as many times as necessary without limit.

(2) The administrator shall:

(a) Be a member of the firm or a supervisory employee and shall be available during working hours to carry out the duties of an administrator under this section;

(b) Ensure that all electrical work complies with the electrical installation laws and rules of the state;

(c) Ensure that the proper electrical safety procedures are used;

(d) Ensure that all electrical labels, permits, and licenses required to perform electrical work are used;

(e) See that corrective notices issued by an inspecting authority are complied with; and

(f) Notify the department in writing within ten days if the administrator terminates the relationship with the electrical contractor.

(3) The department shall not by rule change the administrator's duties under subsection (2) of this section.

Sec. 8. Section 5, chapter 169, Laws of 1935 as last amended by section 3, chapter 71, Laws of 1969 ex. sess. and RCW 19.28.180 are each amended to read as follows:

Any person, firm, or corporation sustaining any damage or injury by reason of the principal's breach of the conditions of ~~((said bond by the principal therein))~~ the bond required under RCW 19.28.120 may bring an action against the surety named therein, ~~((with or without))~~ joining in ~~((said))~~ the action the principal named in ~~((said))~~ the bond; ~~((said))~~ the action ~~((may))~~ shall be brought in the superior court of any county in which the principal on ~~((said))~~ the bond resides or transacts business, or in the county in which the work was performed as a result of which the breach is alleged to have occurred; ~~((said))~~ the action shall be maintained and prosecuted as other civil actions. ~~((No action on said bond, or failure to bring action thereon shall waive the right of any person, firm or corporation to sue~~

~~the principal named in said bond for any damage or injury sustained by reason of the failure of the principal in said bond to comply with the provisions of this chapter.~~) Claims or actions against the surety on ~~((such))~~ the bond((s)) shall be paid in full in the following order of priority: (1) labor, including employee benefits, (2) materials and equipment used upon such work, (3) taxes and contributions due to the state, (4) damages sustained by any person, firm or corporation due to the failure of the principal to make the installation in accordance with the provisions of chapter 19.28 RCW, or any ordinance, building code, or regulation applicable thereto: PROVIDED, That the total liability of the surety on any ~~((such))~~ bond shall not exceed the sum of ~~((three))~~ four thousand dollars and the surety on the bond shall not be liable for monetary penalties; and any ~~((such))~~ action shall be brought within one year from the completion of the work in the performance of which the breach is alleged to have occurred. The surety shall mail a conformed copy of the judgment against the bond to the department within seven days.

In the event that a cash or securities deposit has been made in lieu of the surety bond, and in the event of a judgment being entered against such depositor and deposit, the director shall upon receipt of a certified copy of a final judgment, pay said judgment from such deposit.

Sec. 9. Section 6, chapter 169, Laws of 1935 and RCW 19.28.190 are each amended to read as follows:

No person, firm or corporation engaging in, conducting or carrying on the business of installing wires or equipment to convey electric current, or installing apparatus to be operated by said current, shall be entitled to commence or maintain any suit or action in any court of this state pertaining to any such work or business, without alleging and proving that such person, firm or corporation held, at the time of commencing and performing such work, an unexpired, unrevoked and unsuspended license issued under the provisions of this chapter; and no city or town requiring by ordinance or regulation a permit ~~((before any))~~ for inspection or installation of such electrical work ~~((is installed))~~, shall issue such permit to any person, firm or corporation not holding such license.

Sec. 10. Section 7, chapter 169, Laws of 1935 as amended by section 11, chapter 206, Laws of 1983 and RCW 19.28.310 are each amended to read as follows:

The department has the power, in case of continued noncompliance with the provisions of this chapter, to revoke or suspend for such a period as it determines, any electrical contractor license or electrical contractor administrator certificate issued under this chapter. The department shall notify the holder of the license or certificate of the revocation or suspension by certified mail. A revocation or suspension is effective fifteen days after the holder receives the notice. Any revocation or suspension is subject to review by an appeal to the board of electrical examiners. The filing of an appeal

stays the effect of a revocation or suspension until the board of electrical examiners makes its decision. The appeal shall be filed within fifteen days after notice of the revocation or suspension is given by certified mail sent to the address of the holder of the license or certificate as shown on the application for the license or certificate, and shall be effected by filing a written notice of appeal with the department, accompanied by a certified check for two hundred dollars, which shall be returned to the holder of the license or certificate if the decision of the department is not sustained by the board. The hearing shall be conducted in accordance with chapter 34.04 RCW. If the board sustains the decision of the department, the two hundred dollars shall be applied by the department to the payment of the per diem and expenses of the members of the board incurred in the matter, and any balance remaining after payment of per diem and expenses shall be paid into the electrical license fund.

Sec. 11. Section 14, chapter 169, Laws of 1935 as last amended by section 12, chapter 206, Laws of 1983 and RCW 19.28.350 are each amended to read as follows:

Any person, firm, partnership, corporation, or other entity violating any of the provisions of RCW 19.28.010 through 19.28.380 (~~(is guilty of a misdemeanor, and)~~) shall be (~~(punished by a fine)~~) assessed a penalty of not less than fifty dollars(~~(, or not less than five days imprisonment, or both the fine and imprisonment. Each day that any violation continues shall be deemed a separate offense)~~) or more than ten thousand dollars. The department shall set by rule a schedule of penalties for violating RCW 19.28.010 through 19.28.380. The department shall notify the person, firm, partnership, corporation, or other entity violating any of the provisions of RCW 19.28.010 through 19.28.380 of the amount of the penalty and of the specific violation by certified mail, return receipt requested, sent to the last known address of the assessed party. Any penalty is subject to review by an appeal to the board of electrical examiners. The filing of an appeal stays the effect of the penalty until the board of electrical examiners makes its decision. The appeal shall be filed within fifteen days after notice of the penalty is given to the assessed party by certified mail, return receipt requested, sent to the last known address of the assessed party and shall be made by filing a written notice of appeal with the department. The notice shall be accompanied by a certified check for two hundred dollars, which shall be returned to the assessed party if the decision of the department is not sustained by the board. If the board sustains the decision of the department, the two hundred dollars shall be applied by the department to the payment of the per diem and expenses of the members of the board incurred in the matter, and any balance remaining after payment of per diem and expenses shall be paid into the electrical license fund. The hearing and review procedures shall be conducted in accordance with chapter 34.04 RCW. The board of electrical

examiners shall assign its hearings to an administrative law judge to conduct the hearing and issue a proposed decision and order. The board shall be allowed a minimum of twenty days to review a proposed decision and shall issue its decision no later than the next regularly scheduled board meeting.

Sec. 12. Section 3, chapter 325, Laws of 1959 as last amended by section 1, chapter 97, Laws of 1967 ex. sess. and RCW 19.28.360 are each amended to read as follows:

The provisions of RCW 19.28.210 shall not apply:

(1) Within the corporate limits of any incorporated city or town which has heretofore adopted and enforced or subsequently adopts and enforces an ordinance requiring an equal, higher or better standard of construction and of materials, devices, appliances and equipment than is required by this chapter (~~PROVIDED, That such city or town shall require that its electrical inspectors meet qualifications provided for state electrical inspectors in accordance with RCW 19.28.070~~).

(2) Within the service area of an electricity supply agency owned and operated by a city or town which is supplying electricity and enforcing a standard of construction and materials outside its corporate limits at the time this act takes effect: PROVIDED, That such city, town or agency shall henceforth enforce by inspection within its service area outside its corporate limits the same standards of construction and of materials, devices, appliances and equipment as is enforced by the department of labor and industries under the authority of this chapter: PROVIDED FURTHER, That fees charged henceforth in connection with such enforcement shall not exceed those established in RCW 19.28.210.

(3) Within the rights of way of state highways, provided the state department of transportation maintains and enforces an equal, higher or better standard of construction and of materials, devices, appliances and equipment than is required by RCW 19.28.010 through 19.28.360.

Sec. 13. Section 5, chapter 30, Laws of 1980 as amended by section 15, chapter 206, Laws of 1983 and RCW 19.28.540 are each amended to read as follows:

The department, in coordination with the board of electrical examiners, shall prepare an examination to be administered to applicants for journeyman and specialty certificates of competency. The examination shall be constructed to determine:

(1) Whether the applicant possesses varied general knowledge of the technical information and practical procedures that are identified with the status of journeyman electrician or specialty electrician; and

(2) Whether the applicant is sufficiently familiar with the applicable electrical codes and the rules of the department pertaining to electrical installations and electricians.

The department shall, at least four times annually, administer the examination to persons eligible to take it under RCW 19.28.530. A person may take the journeyman or specialty test as many times as necessary without limit. All applicants shall, before taking the examination, pay to the department an examination fee. The department shall set the fee by rule. The fee shall cover but not exceed the costs of preparing and administering the examination.

The department shall certify the results of the examination upon such terms and after such a period of time as the department, in cooperation with the board of electrical examiners, deems necessary and proper.

(3) The department upon the consent of the board of electrical examiners may enter into a contract with a professional testing agency to develop, administer, and score journeyman and/or specialty electrician certification examinations.

Sec. 14. Section 6, chapter 30, Laws of 1980 as amended by section 16, chapter 206, Laws of 1983 and RCW 19.28.550 are each amended to read as follows:

The department shall issue a certificate of competency to all applicants who have passed the examination provided in RCW 19.28.540, and who have complied with RCW 19.28.510 through 19.28.620 and the rules adopted under this chapter. The certificate shall bear the date of issuance, and shall expire on the ~~((first of July))~~ holder's birthdate two years immediately following the date of issuance. The certificate shall be renewed ~~((annually))~~ every two years, upon application, on or before the ~~((first of July))~~ holder's birthdate. A fee shall be assessed for each certificate and for each annual renewal. The certificate may be renewed without examination by appropriate application unless the certificate has been revoked, suspended, or not renewed within ninety days after the expiration date. If the certificate is not renewed before the expiration date, the individual shall pay twice the usual fee. The department shall set the fees by rule for issuance and renewal of a certificate of competency. The fees shall cover but not exceed the costs of issuing the certificates and of administering and enforcing the electrician certification requirements of this chapter.

The certificates of competency and temporary permits provided for in this chapter grant the holder the right to work in the electrical construction trade as a journeyman electrician or specialty electrician in accordance with their provisions throughout the state and within any of its political subdivisions without additional proof of competency or any other license, permit, or fee to engage in such work.

Sec. 15. Section 8, chapter 30, Laws of 1980 as amended by section 17, chapter 206, Laws of 1983 and RCW 19.28.570 are each amended to read as follows:

The department is authorized to grant and issue temporary permits in lieu of certificates of competency whenever an electrician coming into the

state of Washington from another state requests the department for a temporary permit to engage in the electrical construction trade as an electrician during the period of time between filing of an application for a certificate as provided in RCW 19.28.520 and the date the results of taking the examination provided for in RCW 19.28.540 are furnished to the applicant. The department is authorized to enter into reciprocal agreements with other states providing for the acceptance of such states' journeyman and speciality electrician certificate of competency or its equivalent when such states requirements are equal to the standards set by this chapter. No temporary permit shall be issued to:

(1) Any person who has failed to pass the examination for a certificate of competency, except that any person who has failed the examination for competency under this section shall be entitled to continue to work under a temporary permit for ninety days if the person is enrolled in a journeyman electrician refresher course and shows evidence to the department that he or she has not missed any classes. The person, after completing the journeyman electrician refresher course, shall be eligible to retake the examination for competency at the next scheduled time.

(2) Any applicant under this section who has not furnished the department with such evidence required under RCW 19.28.520.

(3) To any apprentice electrician.

Sec. 16. Section 12, chapter 30, Laws of 1980 as amended by section 21, chapter 206, Laws of 1983 and RCW 19.28.610 are each amended to read as follows:

Nothing in RCW 19.28.510 through 19.28.620 shall be construed to require that a person obtain a license or a certified electrician in order to do electrical work at his or her residence or farm or place of business or on other property owned by him: PROVIDED, HOWEVER, That nothing in RCW 19.28.510 through 19.28.620 shall be intended to derogate from or dispense with the requirements of any valid electrical code enacted by a city or town pursuant to RCW 19.28.010(2), except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the electrical construction trade: AND PROVIDED FURTHER, That RCW 19.28.510 through 19.28.620 shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees: AND PROVIDED FURTHER, That nothing in RCW 19.28.510 through 19.28.620 shall be deemed to apply to the installation or maintenance of (~~communications or electronic circuits, wires and apparatus, or~~) telephone, telegraph, radio, or television ((stations)) wires and equipment; nor to any electrical utility or its employees, in the installations and maintenance of electrical wiring, circuits, and equipment by or for the utility, or comprising a part of its plants, lines or systems. The licensing provisions of RCW 19.28.510 through 19.28.620 shall not apply to persons

making electrical installations on their own property or to regularly employed employees working on the premises of their employer: AND PROVIDED FURTHER, That nothing in RCW 19.28.510 through 19.28.620 shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative or other person when none of the individuals doing the electrical installation hold themselves out as engaged in the trade or business of electrical installations. Nothing precludes any person who is exempt from the licensing requirements of this chapter under this section from obtaining a journeyman or specialty certificate of competency if they otherwise meet the requirements of this chapter.

Sec. 17. Section 13, chapter 30, Laws of 1980 as amended by section 22, chapter 206, Laws of 1983 and RCW 19.28.620 are each amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to employ an individual for purposes of RCW 19.28.510 through 19.28.620 who has not been issued a certificate of competency or a training certificate. It is unlawful for any individual to engage in the electrical construction trade or to maintain or install any electrical equipment ((for light, heat, or power)) or conductors without having in his or her possession a certificate of competency or a training certificate under RCW 19.28.510 through 19.28.620. Any person, firm, partnership, corporation, or other entity found in violation of RCW 19.28.510 through 19.28.620 shall be ((punished by a fine)) assessed a penalty of not less than fifty dollars or more than five hundred dollars. The department shall set by rule a schedule of penalties for violating RCW 19.28.510 through 19.28.620. An appeal may be made to the board of electrical examiners as is provided in RCW 19.28.350. The appeal shall be filed within fifteen days after the notice of the penalty is given to the assessed party by certified mail, return receipt requested, sent to the last known address of the assessed party and shall be made by filing a written notice of appeal with the department. Any equipment maintained or installed by any person who does not possess a certificate of competency under RCW 19.28.510 through 19.28.620 shall not receive an electrical work permit and electrical service shall not be connected or maintained to operate the equipment. Each day that a person, firm, partnership, corporation, or other entity violates the provisions of RCW 19.28.510 through 19.28.620 is a separate violation.

(2) A civil penalty shall be collected in a civil action brought by the attorney general ((or the prosecuting attorney of)) in the county wherein the alleged violation arose at the request of the department if any of the provisions of RCW 19.28.510 through 19.28.620 or any rules promulgated under RCW 19.28.510 through 19.28.620 are violated.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 35, chapter 170, Laws of 1965 ex. sess., section 18, chapter 30, Laws of 1980 and RCW 19.28.380; and

(2) Section 10, chapter 30, Laws of 1980, section 19, chapter 206, Laws of 1983 and RCW 19.28.590.

Passed the House February 14, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 157

[House Bill No. 1868]

CENTENNIAL LOGOS—AUTHORIZED AND UNAUTHORIZED USE

AN ACT Relating to 1989 centennial logos; adding a new section to chapter 27.60 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature intends that the celebration of the centennial should be of high quality, and that the centennial may generate revenues to help support such programs and plans. The legislature is concerned, as other states' legislatures and the congress have been, that large but transitory celebrations such as the bicentennial, Olympic games, or centennials, may present an opportunity for inappropriate commercial activity or outright theft of the valuable public property represented by the celebration and its associated symbols. To this end, it is declared to be in the public interest to provide for the protection of officially adopted centennial symbols, marks, and graphic insignia, and to assist the commission with the prevention of unauthorized use of such symbols.

NEW SECTION. Sec. 2. A new section is added to chapter 27.60 RCW to read as follows:

(1) Except as authorized by the commission in writing, the manufacture, reproduction, or use of any logos, emblems, symbols, slogans, or marks originated under and adopted by authority of the commission in connection with the commemoration and celebration of the 1989 Washington state centennial, or any facsimile thereof, or any combination or simulation thereof tending to suggest official connection with the centennial or centennial activities, shall constitute unfair practice under chapter 19.86 RCW. At the request of the commission, the attorney general shall bring such action as may be necessary under chapter 19.86 RCW, including but not limited to action to recover all profits from unauthorized use of centennial insignia and marks.

(2) Except as authorized by the commission in writing, any person or entity who knowingly or wilfully manufactures, reproduces, or uses any logos, emblems, symbols, slogans or marks originated under and adopted by

authority of the commission in connection with the commemoration and celebration of the 1989 Washington state centennial, or any facsimile thereof, or any combination or simulation thereof tending to suggest official connection with the centennial or centennial activities, shall be guilty of a gross misdemeanor.

(3) Enforcement action under subsection (1) or (2) of this section is authorized only with respect to logos, emblems, symbols, slogans, or marks for which notice of adoption by the commission has been published in the Washington state register.

(4) This act shall not be construed to prevent the commission from seeking such other remedies as it may be entitled to under applicable state or federal trademark or copyright registration laws with respect to any symbol or mark.

Passed the House February 14, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 158

[Senate Bill No. 4452]

LEGISLATIVE BUDGET COMMITTEE—CERTAIN DUTIES DELETED

AN ACT Relating to the deletion of statutory duties of the legislative budget committee; amending RCW 2.56.120, 7.68.160, 28A.61.070, 28B.16.112, 40.07.050, 41.06.163, 41.06.167, 43.03.260, 43.19.19052, 43.19.200, 43.19.650, 43.19.660, 43.52.378, 43.52.510, 43.52.618, 43.88A.030, 43.105.016, 43.132.040, 43.132.050, 46.08.066, 67.70.050, 74.04.630, and 82.01.135; amending section 715, chapter 373, Laws of 1985 (uncodified); and repealing RCW 28A.97-.100 and 41.60.130.

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

Sec. 1. Section 604, chapter 258, Laws of 1984 and RCW 2.56.120 are each amended to read as follows:

(1) The office of the administrator for the courts, in cooperation with appropriate legislative committees and legislative staff, shall establish a procedure for the provision of judicial impact notes on the effect legislative bills will have on the workload and administration of the courts of this state. The administrator for the courts and the office of financial management shall coordinate the development of judicial impact notes with the preparation of fiscal notes under chapters 43.88A and 43.132 RCW.

(2) The administrator for the courts shall provide a judicial impact note on any legislative proposal at the request of any legislator. The note shall be provided to the requesting legislator and copies filed with the appropriate legislative committees in accordance with subsection (3) of this section when the proposed legislation is introduced in either house.

(3) When a judicial impact note is prepared and approved by the administrator for the courts, copies of the note shall be filed with:

- (a) The chairperson of the committee to which the bill was referred upon introduction in the house of origin;
- (b) The senate committee on ways and means;
- (c) The house of representatives committee on ways and means;
- (d) The senate judiciary committee;
- (e) The house of representatives judiciary committee; and
- (f) ~~((The legislative budget committee; and~~
- ~~(g)))~~ The office of financial management.

(4) This section shall not prevent either house of the legislature from acting on any bill before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any judicial impact note as provided in this section or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature.

Sec. 2. Section 16, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.160 are each amended to read as follows:

Any person who has been injured as a result of a "criminal act" as herein defined on or after January 1, 1972 up to the effective date of this 1973 act, who would otherwise be eligible for benefits under this chapter, may for a period of ninety days from the effective date of this 1973 act, file a claim for benefits with the department on a form provided by the department. The department shall investigate and review such claims, and, within two hundred ten days of the effective date of this 1973 act, shall report to ~~((the legislative budget committee and))~~ the governor its findings and recommendations as to such claims, along with a statement as to what special legislative relief, if any, the department recommends should be provided.

Sec. 3. Section 4, chapter 187, Laws of 1983 and RCW 28A.61.070 are each amended to read as follows:

The association shall contract with the department of personnel for the department of personnel to audit in odd-numbered years the association's staff classifications and employees' salaries. The association shall give copies of the audit reports to the office of financial management ~~((, the legislative budget committee,))~~ and the committees of each house of the legislature dealing with common schools.

Sec. 4. Section 11, chapter 152, Laws of 1977 ex. sess. as amended by section 17, chapter 151, Laws of 1979 and RCW 28B.16.112 are each amended to read as follows:

(1) In the conduct of salary and fringe benefit surveys under RCW 28B.16.110 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial

management, employee organizations, and the standing committees for appropriations in the senate and house of representatives(~~(, and to the legislative budget committee)~~) six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the higher education personnel board in conjunction with the department of personnel established under chapter 41.06 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the higher education personnel board and the department of personnel. (~~The legislative budget committee shall review and evaluate all survey plans before final implementation.~~)

(3) Interim or special surveys conducted under RCW 28B.16.110 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

(a) Leave time, including vacation, holiday, civil, and personal leave;

(b) Employer retirement contributions;

(c) Health and insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and

(d) Stock options, bonuses, and purchase discounts where appropriate.

Sec. 5. Section 5, chapter 232, Laws of 1977 ex. sess. and RCW 40.07.050 are each amended to read as follows:

Neither the public printer nor any state agency shall print or authorize for printing any state publication that has been determined by the director to be inconsistent with RCW 40.07.030 except to the extent this requirement may conflict with the laws of the United States or any rules or regulations lawfully promulgated under those laws. A copy of any state publication printed without the approval of the director under the exceptions authorized in this section shall be filed with the director with a letter of transmittal citing the federal statute, rule, or regulation requiring the publication. ~~((The director shall submit a report of such exceptions, as filed, to the legislative budget committee at least annually.))~~

Sec. 6. Section 3, chapter 152, Laws of 1977 ex. sess. as amended by section 59, chapter 151, Laws of 1979 and RCW 41.06.163 are each amended to read as follows:

(1) In the conduct of salary and fringe benefit surveys under RCW 41.06.160 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations of the senate and house of representatives ~~((and to the legislative budget committee))~~ six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey

based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the department of personnel in conjunction with the higher education personnel board established under chapter 28B.16 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the department of personnel and the higher education personnel board. (~~The legislative budget committee shall review and evaluate all survey plans before final implementation.~~)

(3) Interim or special surveys conducted under RCW 41.06.160 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

- (a) Leave time, including vacation, holiday, civil, and personal leave;
- (b) Employer retirement contributions;
- (c) Health and insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and
- (d) Stock options, bonuses, and purchase discounts where appropriate.

Sec. 7. Section 5, chapter 152, Laws of 1977 ex. sess. as last amended by section 3, chapter 94, Laws of 1985 and RCW 41.06.167 are each amended to read as follows:

The department of personnel shall undertake comprehensive salary and fringe benefit surveys for officers of the Washington state patrol, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department shall conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each comprehensive and trend survey shall be completed and forwarded by September 30, after review and concurrence by the chief of the Washington state patrol, to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to (~~the legislative budget committee and~~) the standing committees for appropriations of the senate and house of representatives. The office of financial management shall analyze the survey results and conduct investigations which may be

necessary to arbitrate differences between interested parties regarding the accuracy of collected survey data and the use of such data for salary adjustment.

Surveys conducted by the department of personnel for the Washington state patrol shall be undertaken in a manner consistent with statistically accurate sampling techniques, including comparisons of weighted averages of salaries. This service performed by the department of personnel shall be on a reimbursable basis in accordance with the provisions of RCW 41.06-.080 as now existing or hereafter amended.

A comprehensive salary and fringe benefits survey plan shall be submitted jointly by the department of personnel and the Washington state patrol to the director of financial management, the committee on ways and means of the senate, and the committee on appropriations of the house of representatives (~~and to the legislative budget committee~~) six months before the beginning of each periodic survey. (~~The legislative budget committee shall review and evaluate the survey plan before final implementation.~~)

The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988.

Sec. 8. Section 113, chapter 287, Laws of 1984 and RCW 43.03.260 are each amended to read as follows:

The office of financial management shall review the compensation levels established for the various boards and commissions by RCW 43.03.220, 43.03.230, 43.03.240, and 43.03.250. The conclusions of the review, together with any proposed legislation, shall be submitted to (~~the legislative budget committee and~~) the appropriate standing committees of the legislature by December 1, 1988, and every four years thereafter.

Sec. 9. Section 6, chapter 21, Laws of 1975-'76 2nd ex. sess. as amended by section 98, chapter 151, Laws of 1979 and RCW 43.19.19052 are each amended to read as follows:

Initial policy determinations for the functions described in RCW 43.19.1905 shall be developed and published within the 1975-77 biennium by the director, after consultation with the supply management advisory board for guidance and compliance by all state agencies, including educational institutions, involved in purchasing and material control. Modifications to these initial supply management policies established during the 1975-77 biennium shall be instituted by the director, after consultation with the advisory board, in future biennia as required to maintain an efficient and up-to-date state supply management system. The director shall transmit to the governor and the legislature in June 1976 and June 1977 a progress report

which indicates the degree of accomplishment of each of these assigned duties, and which summarizes specific achievements obtained in increased effectiveness and dollar savings or cost avoidance within the overall state purchasing and material control system. The second progress report in June 1977 shall include a comprehensive supply management plan which includes the recommended organization of a state-wide purchasing and material control system and development of an orderly schedule for implementing such recommendation. In the interim between these annual progress reports, the director shall furnish periodic reports to the office of financial management (~~and the legislative budget committee~~) for review of progress being accomplished in achieving increased efficiencies and dollar savings or cost avoidance.

It is the intention of the legislature that measurable improvements in the effectiveness and economy of supply management in state government shall be achieved during the 1975-77 biennium, and each biennium thereafter. All agencies, departments, offices, divisions, boards, and commissions and educational, correctional, and other types of institutions are required to cooperate with and support the development and implementation of improved efficiency and economy in purchasing and material control. To effectuate this legislative intention, the director, in consultation with the supply management advisory board, and through the state purchasing and material control director, shall have the authority to direct and require the submittal of data from all state organizations concerning purchasing and material control matters.

Sec. 10. Section 43.19.200, chapter 8, Laws of 1965 as last amended by section 2, chapter 102, Laws of 1984 and RCW 43.19.200 are each amended to read as follows:

(1) The governing authorities of the state's educational institutions, the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and all appointive officers of the state, shall prepare estimates of the supplies required for the proper conduct and maintenance of their respective institutions, offices, and departments, covering periods to be fixed by the director, and forward them to the director in accordance with his directions. No such authorities, officers, or departments, or any officer or employee thereof, may purchase any article for the use of their institutions, offices, or departments, except in case of emergency purchases as provided in subsection (2) of this section.

(2) The authorities, officers, and departments enumerated in subsection (1) of this section may make emergency purchases in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or

damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director of general administration. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(3) Purchases made for the state's educational institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and the offices of all appointive officers of the state, shall be paid for out of the moneys appropriated for supplies, material, and service of the respective institutions, offices, and departments.

(4) The director of general administration shall submit, on an annual basis, the written notifications required by subsection (2) of this section to ~~((the legislative budget committee and))~~ the director of financial management. ~~((The legislative budget committee shall review these notifications for compliance with legislative intent.))~~

Sec. 11. Section 3, chapter 86, Laws of 1977 ex. sess. and RCW 43.19.650 are each amended to read as follows:

The director of general administration, through the printing and duplicating management center, shall hereafter approve or take such other action as is deemed necessary regarding the purchase or acquisition of any printing, microfilm, or other duplicating equipment, other than typewriters, by any official or agency of the state.

The staff of the printing and duplicating management center shall develop a copier, duplicating, printing, and microfilm plan for the state, shall monitor implementation of the plan, shall recommend any necessary changes in the plan to the director, and shall develop and promulgate status reports to the governor ~~((, the legislative budget committee,))~~ and to the pertinent executive branch agencies.

Sec. 12. Section 5, chapter 86, Laws of 1977 ex. sess. as amended by section 106, chapter 151, Laws of 1979 and RCW 43.19.660 are each amended to read as follows:

The operation of the printing and duplicating management center shall be financed by the director of the department of general administration from moneys appropriated by the legislature.

The director of the department of general administration shall be responsible for establishing realistic fees to be charged for services rendered by the printing and duplicating management center. The director of financial management shall approve any fees prior to their implementation. All fees and charges collected for services rendered by the printing and duplicating management center shall be deposited in the general fund. It is the intent of RCW 43.19.640 through 43.19.665 that the fees paid by the

agencies and the savings experienced from the activities of the printing and duplicating management center shall more than offset the operating costs of the center.

The director of the department of general administration shall, in December of each calendar year, submit a report of all reported savings by each agency for the year to the senate committee on ways and means((;)) and the house committee on appropriations(~~(, and the legislative budget committee)~~).

Sec. 13. Section 1, chapter 220, Laws of 1979 ex. sess. as last amended by section 8, chapter 43, Laws of 1982 1st ex. sess. and RCW 43.52.378 are each amended to read as follows:

The executive board of any operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement issued pursuant to chapter 80.50 RCW shall appoint an administrative auditor. The administrative auditor shall be deemed an officer under chapter 42.23 RCW. The appointment of the administrative auditor shall be in addition to the appointment of the auditor for the issuance of warrants and other purposes as provided in RCW 43.52.375. The executive board shall retain a qualified firm or firms to conduct performance audits which is in fact independent and does not have any interest, direct or indirect, in any contract with the operating agency other than its employment hereunder. No member or employee of any such firm shall be connected with the operating agency as an officer, employee, or contractor. The administrative auditor and the firm or firms shall be independently and directly responsible to the executive board of the operating agency. The executive board shall require a firm to conduct continuing audits of the methods, procedures and organization used by the operating agency to control costs, schedules, productivity, contract amendments, project design and any other topics deemed desirable by the executive board. The executive board may also require a firm to analyze particular technical aspects of the operating agency's projects and contract amendments. The firm or firms shall provide advice to the executive board in its management and control of the operating agency. At least once each year, the firm or firms shall prepare and furnish a report of its actions and recommendations to the executive board for the purpose of enabling it to attain the highest degree of efficiency in the management and control of any thermal power project under construction or in operation. The administrative auditor shall assist the firm or firms in the performance of its duties. The administrative auditor and the firm or firms shall consult regularly with the executive board and furnish any information or data to the executive board which the administrative auditor, firm, or executive board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the executive board shall prescribe to accomplish the purposes of this section.

~~((In addition to the powers and duties conferred by chapter 44.28 RCW, the legislative budget committee shall evaluate such management audits as to adequacy and effectiveness of procedure and shall consult with and make reports and recommendations to the executive board. The operating agency shall reimburse the legislative budget committee for all costs of furnishing such services.))~~

The operating agency shall file a copy of each firm's reports, ~~((and the legislative budget committee shall file a copy of each of its reports or recommendations in a timely manner.))~~ prepared in accordance with this section, with the respective chairmen of the senate and house energy and utilities committees in a timely manner. Upon the concurrent request of the chairmen of the senate or house energy and utilities committees, the operating agency shall report to the committees on a quarterly basis.

Sec. 14. Section 5, chapter 173, Laws of 1981 and RCW 43.52.510 are each amended to read as follows:

The administrative auditor shall file with the executive board or executive committee of the operating agency a quarterly report relating to compliance by the operating agency with RCW 43.52.490 through 43.52.505. The administrative auditor shall also file copies of the report ~~((with the legislative budget committee, which shall file a copy of each report))~~ with the respective chairpersons of the energy and utilities committees of the senate and house of representatives under RCW 43.52.378.

Sec. 15. Section 7, chapter 44, Laws of 1982 1st ex. sess. and RCW 43.52.618 are each amended to read as follows:

(1) Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment or supplies, the estimated cost of which is in excess of five thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is in excess of ten thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts.

(2) When a joint operating agency chooses to use one or more of the exceptions to sealed bid contracting specified in this chapter, the agency shall certify to the senate and house committees on energy and utilities ~~((and the legislative budget committee))~~ in writing within thirty days after the contract is signed, that such contract is in the public interest, state the reason or reasons why, and indicate the estimated cost savings or schedule improvement to the project compared to contracting for the same material, supplies, equipment or work through completion of work as contracted, including termination costs, or through sealed bids.

Sec. 16. Section 3, chapter 25, Laws of 1977 ex. sess. as last amended by section 1, chapter 112, Laws of 1979 ex. sess. and RCW 43.88A.030 are each amended to read as follows:

When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of financial management, which depicts the expected fiscal impact of a bill or resolution, copies shall be filed immediately with:

- (1) The chairperson of the committee to which the bill or resolution was referred upon introduction in the house of origin;
- (2) The senate committee on ways and means, or its successor; and
- (3) The house committees on revenue and appropriations, or their successors(~~(; and~~
- (4) ~~The legislative budget committee~~)).

Whenever possible, such fiscal note shall be provided prior to or at the time the bill or resolution is first heard by the committee of reference in the house of origin.

When a fiscal note has been prepared for a bill or resolution, a copy of the fiscal note shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible.

Sec. 17. Section 2, chapter 219, Laws of 1973 1st ex. sess. and RCW 43.105.016 are each amended to read as follows:

It is the intention of the legislature that this chapter shall form the basis for the formulation of a long range state automated data processing plan to satisfy the requirements of the legislative, executive, and judicial branches of state government. Each legislative, executive, and judicial agency of state government shall study and define its automated data processing requirements in order that the plan allow for the unique requirements of each branch. All agencies of state government are required to cooperate with and support the development and implementation of this plan. To effectuate this intention, the state data processing authority shall have the authority to direct and require the submittal of data from all state agencies, including data from the state auditor, concerning local government agencies. In addition, the state auditor shall conduct a fiscal-legal audit of the completion of the tasks for the authority specified by RCW 43.105.043(~~(; and the legislative budget committee, or its successor, shall conduct a performance audit of such tasks~~)).

Sec. 18. Section 4, chapter 19, Laws of 1977 ex. sess. as amended by section 151, chapter 151, Laws of 1979 and RCW 43.132.040 are each amended to read as follows:

When a fiscal note is prepared and approved as to form and completeness by the director of financial management, the director shall transmit copies immediately to:

- (1) The requesting legislator;

(2) With respect to proposed legislation held by the senate, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairperson of the ways and means committee, the chairperson of the local government committee, and the secretary of the senate; and

(3) With respect to proposed legislation held by the house of representatives, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairpersons of the revenue and taxation and appropriations committees, the chairperson of the local government committee, and the chief clerk of the house of representatives(~~(and~~

~~(4) The legislative budget committee~~)).

Sec. 19. Section 5, chapter 19, Laws of 1977 ex. sess. as amended by section 152, chapter 151, Laws of 1979 and RCW 43.132.050 are each amended to read as follows:

The office of financial management (~~(and the legislative budget committee)~~) may make additional copies of the fiscal note available to members of the legislature and others on request.

At the request of any member of the senate or house of representatives, whichever is considering the proposed legislation, and unless it is prohibited by the rules of the body, copies of the fiscal note or a synopsis thereof shall be placed on the members' desks at the time the proposed legislation takes its place on the second reading calendar.

Whenever proposed legislation accompanied by such a fiscal note is passed by either the senate or the house of representatives, the fiscal note shall be transmitted with the bill to the other house.

Sec. 20. Section 2, chapter 169, Laws of 1975 1st ex. sess. as last amended by section 14, chapter 163, Laws of 1982 and RCW 46.08.066 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, the department of licensing is authorized to issue confidential motor vehicle license plates to units of local government and to agencies of the federal government for law enforcement purposes only.

(2) Except as provided in subsections (3) and (4) of this section the use of confidential plates on vehicles owned or operated by the state of Washington by any officer or employee thereof, shall be limited to confidential, investigative, or undercover work of state law enforcement agencies, confidential public health work, and confidential public assistance fraud or support investigations.

(3) Any state official elected on a state-wide basis shall be provided on request with one set of confidential plates for use on official business. When necessary for the personal security of any other public officer, or public employee, the chief of the Washington state patrol may recommend that the director issue confidential plates for use on an unmarked publicly owned or controlled vehicle of the appropriate governmental unit for the conduct of official business for the period of time that the personal security of such

state official, public officer, or other public employee may require. The office of the state treasurer may use an unmarked state owned or controlled vehicle with confidential plates where required for the safe transportation of either state funds or negotiable securities to or from the office of the state treasurer.

(4) The director of licensing may issue rules and regulations governing applications for, and the use of, such plates by law enforcement and other public agencies. ~~((The legislative auditor shall periodically examine or require filing of a current listing of the total number of such plates issued to any law enforcement or other public agency. Reports on the utilization of such plates shall be submitted to the legislative budget committee and to the legislature.))~~

Sec. 21. Section 5, chapter 7, Laws of 1982 2nd ex. sess. as amended by section 2, chapter 375, Laws of 1985 and RCW 67.70.050 are each amended to read as follows:

There is created the office of director of the state lottery. The director shall be appointed by the governor with the consent of the senate. The director shall serve at the pleasure of the governor and shall receive such salary as is determined by the governor, but in no case may the director's salary be more than ninety percent of the salary of the governor. The director shall:

(1) Supervise and administer the operation of the lottery in accordance with the provisions of this chapter and with the rules of the commission.

(2) Appoint such deputy and assistant directors as may be required to carry out the functions and duties of his office: PROVIDED, That the provisions of the state civil service law, chapter 41.06 RCW, shall not apply to such deputy and assistant directors.

(3) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter: PROVIDED, That the provisions of the state civil service law, chapter 41.06 RCW, shall not apply to such employees as are engaged in undercover audit or investigative work or security operations but shall apply to other employees appointed by the director, except as provided for in subsection (2) of this section.

(4) In accordance with the provisions of this chapter and the rules of the commission, license as agents to sell or distribute lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent, in such amount as provided in the rules of the commission. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules of the commission. License fees may be established by the commission, and, if established, shall be deposited in the state lottery account created by RCW 67.70.230.

(5) Confer regularly as necessary or desirable with the commission on the operation and administration of the lottery; make available for inspection by the commission, upon request, all books, records, files, and other information and documents of the lottery; and advise the commission and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery.

(6) Subject to the applicable laws relating to public contracts, enter into contracts for the operation of the lottery, or any part thereof, and into contracts for the promotion of the lottery. No contract awarded or entered into by the director may be assigned by the holder thereof except by specific approval of the commission: PROVIDED, That nothing in this chapter authorizes the director to enter into public contracts for the regular and permanent administration of the lottery after the initial development and implementation.

(7) Certify quarterly to the state treasurer(~~(, the legislative budget committee,)~~) and the commission a full and complete statement of lottery revenues, prize disbursements, and other expenses for the preceding quarter.

(8) Publish quarterly reports showing the total lottery revenues, prize disbursements, and other expenses for the preceding quarter, and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, to the governor and the legislature, and including such recommendations for changes in this chapter as the director deems necessary or desirable.

(9) Report immediately to the governor and the legislature any matters which require immediate changes in the laws of this state in order to prevent abuses and evasions of this chapter or rules promulgated thereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

(10) Carry on a continuous study and investigation of the lottery throughout the state: (a) For the purpose of ascertaining any defects in this chapter or in the rules issued thereunder by reason whereof any abuses in the administration and operation of the lottery or any evasion of this chapter or the rules may arise or be practiced, (b) for the purpose of formulating recommendations for changes in this chapter and the rules promulgated thereunder to prevent such abuses and evasions, (c) to guard against the use of this chapter and the rules issued thereunder as a cloak for the carrying on of professional gambling and crime, and (d) to insure that this chapter and rules shall be in such form and be so administered as to serve the true purposes of this chapter.

(11) Make a continuous study and investigation of: (a) The operation and the administration of similar laws which may be in effect in other states or countries, (b) any literature on the subject which from time to time may

be published or available, (c) any federal laws which may affect the operation of the lottery, and (d) the reaction of the citizens of this state to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this chapter.

(12) Have all enforcement powers granted in chapter 9.46 RCW.

(13) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Sec. 22. Section 4, chapter 10, Laws of 1973 2nd ex. sess. and RCW 74.04.630 are each amended to read as follows:

The department shall enter into contractual agreements with the United States department of health, education and welfare, consistent with the provisions of Public Laws 92-603 and 93-66, and to be effective January 1, 1974, for the purpose of enabling the secretary of the department of health, education and welfare to perform administrative functions of state supplementation to the national supplemental security income program and the determination of medicaid eligibility on behalf of the state. The department is authorized to transfer and make payments of state funds to the secretary of the department of health, education and welfare as required by Public Laws 92-603 and 93-66: **PROVIDED, HOWEVER,** That such agreements shall be submitted for review and comment to the social and health services committees of the senate and house of representatives (~~(, and shall be subject to authorization and/or ratification by the legislative budget committee; and such agreements shall not bind the state unless and until such authorization and/or ratification is given. PROVIDED FURTHER, HOWEVER, That if the authorization and ratification is not given,))~~). The department of social and health services shall administer the state supplemental program as established in RCW 74.04.620.

Sec. 23. Section 5, chapter 138, Laws of 1984 and RCW 82.01.135 are each amended to read as follows:

(1) To promote the free flow of information and to promote legislative input in the preparation of forecasts, immediate access to all information relating to economic and revenue forecasts shall be available to the economic and revenue forecast work group, hereby created. Revenue collection information shall be available to the economic and revenue forecast work group the first business day following the conclusion of each collection period. The economic and revenue forecast work group shall consist of one staff member selected by the executive head or chairperson of each of the following agencies or committees:

- (a) Department of revenue;
- (b) Office of financial management;
- (c) ~~((Legislative budget committee;~~
- ~~(d)))~~ Legislative evaluation and accountability program committee;
- ~~((e)))~~ (d) Ways and means committee of the senate; and
- ~~((f)))~~ (e) Ways and means committee of the house of representatives.

(2) The economic and revenue forecast work group shall provide technical support to the economic and revenue forecast council. Meetings of the economic and revenue forecast work group may be called by any member of the group for the purpose of assisting the economic and revenue forecast council, reviewing the state economic and revenue forecasts, or reviewing monthly revenue collection data or for any other purpose which may assist the economic and revenue forecast council.

Sec. 24. Section 715, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

To carry out effectively, efficiently, and economically the provisions of this act, each agency shall establish a start date and completion date on each project which has an estimated total cost which exceeds five hundred thousand dollars and for which a start or completion date is not specified in this act. This information shall be furnished to the office of financial management ~~((and the legislative auditor))~~ no later than the date the allotment request is filed with the office of financial management. If a project cannot start on or before the indicated start date or be completed by the indicated completion date, the director of the agency shall document and file with the office of financial management ~~((and the legislative budget committee))~~ the reason for the delay and indicate the new start and/or completion date(s). ~~((The legislative auditor shall review these filings and report thereon to the legislative budget committee and the appropriate standing committees of the senate and house of representatives.~~

~~As a result of these filings, agency directors may be required to appear before the legislative budget committee for further explanation of a project delay:))~~

NEW SECTION. Sec. 25. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 174, Laws of 1979 ex. sess., section 8, chapter 87, Laws of 1980 and RCW 28A.97.100; and

(2) Section 5, chapter 167, Laws of 1982 and RCW 41.60.130.

Passed the Senate February 11, 1986.

Passed the House March 7, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 159

[Substitute Senate Bill No. 4639]

COUNTY BOARD OF COMMISSIONERS—STATE SENATOR OR REPRESENTATIVE—VACANCIES—FILLING PROCEDURES

AN ACT Relating to vacancies in elective office; amending RCW 36.32.070; and adding new sections to chapter 42.12 RCW; and providing an effective date.

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

Sec. 1. Section 36.32.070, chapter 4, Laws of 1963 and RCW 36.32-.070 are each amended to read as follows:

Whenever there is a vacancy in the board of county commissioners, it shall be filled as follows:

(1) If there are three vacancies, the governor of the state shall appoint two of the officers. The two commissioners thus appointed shall then meet and select the third commissioner. The vacancies shall be filled in accordance with Article II, section 15 of the state Constitution and section 3 of this 1986 act. ~~((If the two appointed commissioners fail to agree upon selection of the third after the expiration of five days from the day they were appointed, the governor shall appoint the remaining commissioner.))~~

(2) Whenever there are two vacancies in the office of county commissioner, the governor shall appoint one commissioner, and the two commissioners then in office shall appoint the third commissioner. The vacancies shall be filled in accordance with Article II, section 15 of the state Constitution and section 3 of this 1986 act. ~~((If they fail to agree upon a selection after the expiration of five days from the day of the governor's appointment, the governor shall appoint the third commissioner.))~~

(3) Whenever there is one vacancy in the office of county commissioner, the two remaining commissioners shall fill the vacancy in accordance with Article II, section 15 of the state Constitution and section 3 of this 1986 act. ~~((If the two commissioners fail to agree upon a selection after the expiration of five days from the day the vacancy occurred, the governor shall appoint the third commissioner.))~~

NEW SECTION. Sec. 2. A new section is added to chapter 42.12 RCW to read as follows:

When a vacancy occurs in the office of senator or representative of a legislative district comprising more than one county, the legislative authorities of the counties partially and entirely within the district shall, in joint action, fill the vacancy. The chairperson of the legislative authority of the county whose population residing within the district is greatest shall chair the meeting. Members of each legislative authority, not disqualified from voting under Article II, section 15 of the state Constitution, shall cast individual votes that together amount to the percentage, rounded to the nearest whole number, that the population of the county within the legislative district bears to the population of the entire district. Populations shall be determined by the last decennial census or special census conducted by the bureau of the census of the United States department of commerce and shall exclude nonresident military personnel. The person who receives a majority percentage of the votes shall be appointed to fill the vacancy.

NEW SECTION. Sec. 3. A new section is added to chapter 42.12 RCW to read as follows:

(1) A state or county central committee submitting a list of nominees under Article II, section 15 of the state Constitution shall do so within fourteen days of the occurrence of the vacancy.

(2) A county legislative authority or jointly meeting county legislative authorities making an appointment under Article II, section 15 of the state Constitution shall do so within twenty-eight days of the occurrence of the vacancy.

(3) Except as provided in subsection (4) of this section, an appointment made by the governor under Article II, section 15 of the state Constitution shall be made within forty-two days of the occurrence of the vacancy.

(4) An appointment made by the governor under Article II, section 15 of the state Constitution to establish a majority of filled positions on a county legislative authority shall be made within twenty-eight days of the occurrence of each vacancy.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act shall take effect December 15, 1986, if the proposed amendment to Article II, section 15 of the state Constitution, Substitute Senate Joint Resolution No. 138, modifying methods for filling vacancies in the legislature or county elective office, is validly submitted to and is approved and ratified by the voters at a general election held in November 1986. If the proposed amendment is not so approved and ratified, sections 1 through 3 of this act shall be null and void in their entirety.

Passed the Senate March 12, 1986.

Passed the House March 12, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 160

[Substitute Senate Bill No. 4665]

PUBLIC FUNDS—OUT-OF-STATE DEPOSIT—DEMAND ACCOUNTS

AN ACT Relating to out-of-state deposit of public funds; amending RCW 39.58.080; and adding a new section to chapter 39.58 RCW.

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

Sec. 1. Section 8, chapter 193, Laws of 1969 ex. sess. as last amended by section 14, chapter 177, Laws of 1984 and RCW 39.58.080 are each amended to read as follows:

Except for funds deposited pursuant to a fiscal agency contract with the state fiscal agent or its correspondent bank, no public funds shall be deposited in demand or investment deposits except in a qualified public depository located in this state or as otherwise expressly permitted by statute; PROVIDED, That the commission, upon good cause shown, may authorize a treasurer to maintain a demand deposit account with a banking institution

located outside the state of Washington solely for the purpose of transmitting money received to financial institutions in the state of Washington for deposit for such time and upon such terms and conditions as the commission deems appropriate.

NEW SECTION. Sec. 2. A new section is added to chapter 39.58 RCW to read as follows:

With the written approval of the commission, state and local governmental entities may establish demand accounts in out-of-state and alien banks in an aggregate amount not to exceed one million dollars. No single governmental entity shall be authorized to hold more than fifty thousand dollars in one demand account.

The governmental entities establishing such demand accounts shall be solely responsible for their proper and prudent management and shall bear total responsibility for any losses incurred by such accounts. Accounts established under the provisions of this section shall not be considered insured by the commission.

The state auditor shall annually monitor compliance with this section and the financial status of such demand accounts and report the findings to the appropriate committee of the legislature.

Passed the Senate March 8, 1986.

Passed the House March 1, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 161

[Engrossed Substitute Senate Bill No. 4674]

SALARIES OF ELECTED STATE OFFICERS

AN ACT Relating to salaries of elective state officers; amending RCW 43.03.010 and 3.34.130; creating a new section; and providing an effective date.

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

Sec. 1. Section 43.03.010, chapter 8, Laws of 1965 as last amended by section 3, chapter 29, Laws of 1983 1st ex. sess. and RCW 43.03.010 are each amended to read as follows:

(1) ~~((Effective July 1, 1979, the annual salaries of the following named state elected officials shall be: Governor, fifty-eight thousand nine hundred dollars; lieutenant governor, twenty-six thousand eight hundred dollars plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state; removal, resignation, death, or disability of the governor; secretary of state, twenty-eight thousand nine hundred dollars; state treasurer, thirty-four thousand eight hundred dollars;~~

~~state auditor, thirty-four thousand eight hundred dollars; attorney general, forty-four thousand dollars; superintendent of public instruction, forty thousand dollars; commissioner of public lands, forty thousand dollars; state insurance commissioner, thirty-four thousand eight hundred dollars. Members of the legislature shall receive for their service nine thousand eight hundred dollars per annum, effective January 8, 1979, and in addition, ten cents per mile for travel to and from legislative sessions.~~

(2)) ~~Effective ((July 1, 1980))~~ January 1, 1987, the annual salaries of the following named state elected officials shall be: Governor, ~~((sixty-three))~~ seventy-four thousand nine hundred dollars; lieutenant governor, ~~((twenty-eight))~~ forty-one thousand ((six)) two hundred dollars plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state, ~~((thirty-one))~~ forty-two thousand four hundred dollars; state treasurer, ~~((thirty-seven))~~ forty-six thousand ((two)) four hundred fifty dollars; state auditor, ~~((thirty-seven))~~ forty-six thousand ((two)) four hundred fifty dollars; attorney general, ~~((forty-seven))~~ fifty-five thousand ((one)) four hundred fifty dollars; superintendent of public instruction, ~~((forty-two))~~ fifty-three thousand ((eight)) three hundred dollars; commissioner of public lands, ~~((forty-two))~~ fifty-three thousand ((eight)) three hundred dollars; state insurance commissioner, ~~((thirty-seven))~~ forty-six thousand ((two)) four hundred fifty dollars.

(2) Effective January 1, 1988, the annual salaries of the following named state elected officials shall be: Governor, eighty-six thousand eight hundred dollars; lieutenant governor, fifty-three thousand eight hundred dollars plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state, fifty-three thousand eight hundred dollars; state treasurer, fifty-five thousand seven hundred dollars; state auditor, fifty-five thousand seven hundred dollars; attorney general, sixty-three thousand eight hundred dollars; superintendent of public instruction, sixty-three thousand eight hundred dollars; commissioner of public lands, sixty-three thousand eight hundred dollars; state insurance commissioner, fifty-five thousand seven hundred dollars.

(3) Members of the legislature shall receive for their service ((eleven thousand two hundred dollars per annum, effective January 12, 1981, twelve thousand dollars per annum effective January 1, 1982, twelve thousand eight hundred fifty dollars effective January 10, 1983, and)) thirteen thousand seven hundred fifty dollars effective January 1, 1984; fourteen thousand five hundred dollars per annum, effective January 12, 1987; fifteen

thousand dollars per annum, effective January 1, 1988; sixteen thousand dollars per annum, effective January 9, 1989; and seventeen thousand dollars per annum, effective January 1, 1990; and in addition, reimbursement for mileage for travel to and from legislative sessions as provided in RCW 43.03.060.

NEW SECTION. Sec. 2. The state committee on salaries shall reexamine the duties and compensation of all state-wide elected officials, develop new recommendations for salaries based upon the reexamination, and establish an objective and automatic method to revise future salaries for the elected officials. A report on the committee's findings shall be submitted to the legislature no later than December 31, 1986.

NEW SECTION. Sec. 3. Section 1 of this act shall take effect on January 1, 1987.

Sec. 4. Section 22, chapter 299, Laws of 1961 as last amended by section 302, chapter 258, Laws of 1984 and RCW 3.34.130 are each amended to read as follows:

(1) Each district court shall designate one or more persons as judge pro tempore who shall serve during the temporary absence, disqualification, or incapacity of a district judge. The qualifications of a judge pro tempore shall be the same as for a district judge, except that with respect to RCW 3.34.060(1), the person appointed need only be a registered voter of the state. A judge pro tempore may sit in any district of the county for which he or she is appointed. A judge pro tempore shall be paid ~~((for each day he or she holds a session one-two hundred fiftieth of the annual salary of a full time district judge))~~ the salary authorized by the county legislative authority. For each day that a judge pro tempore serves in excess of thirty days during any calendar year, the annual salary of the judge in whose place he or she serves shall be reduced by an amount equal to one-two hundred fiftieth of such salary: PROVIDED, That each full time district judge shall have up to fifteen days annual leave without reduction for service on judicial commissions established by the legislature or the chief justice of the supreme court. No reduction in salary shall occur when a judge pro tempore serves while a district judge is using sick leave granted in accordance with RCW 3.34.100.

(2) The legislature may appropriate money for the purpose of reimbursing counties for the salaries of judges pro tempore for certain days in excess of thirty worked per year that the judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (1) of this section. No later than September 1 of each year, each county treasurer shall certify to the administrator for the courts for the year ending the preceding June 30, the number of days in excess of thirty that any judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (1) of

this section. Upon receipt of the certification, the administrator for the courts shall reimburse the county from money appropriated for that purpose.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 10, 1986.

Passed the House March 7, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 162

[Senate Bill No. 4680]

PRISON INDUSTRIES—INMATES TO PARTICIPATE IN DEVELOPMENT AND IMPLEMENTATION COSTS—PORTION OF WAGES TO THE CRIME VICTIMS COMPENSATION ACCOUNT

AN ACT Relating to institutional industries; and amending RCW 72.09.110.

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

Sec. 1. Section 12, chapter 136, Laws of 1981 and RCW 72.09.110 are each amended to read as follows:

All inmates working in prison industries shall participate in the cost of corrections, including costs to develop and implement institutional industries programs. The secretary shall develop a formula which can be used to determine the extent to which the wages of these inmates will be deducted for this purpose. The amount so deducted shall be placed in the general fund and shall be a reasonable amount which will not unduly discourage the incentive to work. The secretary may direct the state treasurer to deposit a portion of these moneys in the crime victims compensation account.

When the secretary finds it appropriate and not unduly destructive of the work incentive, the secretary shall also provide deductions for restitution, savings, and family support.

Passed the Senate February 13, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 163

[Senate Bill No. 4894]

VOLUNTEER FIREMEN—BENEFITS MODIFIED

AN ACT Relating to benefits for volunteer firemen; and amending RCW 41.24.150, 41.24.160, and 41.24.230.

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

Sec. 1. Section 15, chapter 261, Laws of 1945 as last amended by section 1, chapter 21, Laws of 1981 and RCW 41.24.150 are each amended to read as follows:

Whenever a fireman serving in any capacity as a member of his own fire department subject to the provisions of this chapter becomes physically or mentally disabled, or sick, in consequence or as the result of the performance of his or her duties, so as to be wholly prevented from engaging in each and every duty of his or her regular occupation, business, or profession, he or she shall be paid from the fund monthly, the sum of ~~((nine))~~ one thousand two hundred dollars for a period of not to exceed six months, or ~~((thirty))~~ forty dollars per day for such period as is part of a month, after which period, if the member is incapacitated to such an extent that he or she is thereby prevented from engaging in any occupation or performing any work for compensation or profit or if the member sustained an injury after October 1, 1978, which resulted in the loss or paralysis of both legs(;) or arms, or one leg and one arm, or total loss of eyesight, but such injury has not prevented the member from engaging in an occupation or performing work for compensation or profit, he or she ~~((shall be))~~ is entitled to draw from the fund monthly, the sum of ~~((four))~~ six hundred ~~((fifty))~~ dollars so long as the disability continues, except as hereinafter provided: PROVIDED, That if the member has a wife or husband and/or a child or children unemancipated or under eighteen years of age, he or she ~~((shall be))~~ is entitled to draw from the fund monthly the additional sums of ~~((ninety))~~ one hundred twenty dollars because of the fact of his wife or her husband, ~~((forty-five dollars because of the fact of his or her youngest or only child unemancipated or under eighteen years of age;))~~ and ~~((thirty-five))~~ fifty dollars because of the fact of each ~~((additional))~~ child unemancipated or under eighteen years of age, all to a total maximum amount of ~~((nine))~~ one thousand two hundred dollars. The board may at any time reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce it in the proportion that the annual income from such gainful employment bears to the annual income received by the pensioner at the time of his disability: PROVIDED, That where a fireman sustains a permanent partial disability the state board may provide that such injured fireman shall receive a lump sum compensation therefor to the same extent as is

provided for permanent partial disability under the workmen's compensation act under Title 51 RCW in lieu of such monthly disability payments.

Sec. 2. Section 16, chapter 261, Laws of 1945 as last amended by section 2, chapter 21, Laws of 1981 and RCW 41.24.160 are each amended to read as follows:

(1) Whenever a fireman dies as the result of injuries received, or sickness contracted in consequence or as the result of the performance of his or her duties, the board of trustees shall order and direct the payment of the sum of two thousand dollars to his widow or her widower, or if there ~~((be))~~ is no widow or widower, then to his or her dependent child or children, or if there ~~((be))~~ is no dependent child or children, then to his or her parents or either of them and the sum of ~~((one))~~ six hundred ~~((eighty))~~ dollars per month to his widow or her widower during his or her life together with the additional monthly ~~((sums of forty-five dollars for the youngest or only child and thirty-five))~~ sum of fifty dollars for each ~~((additional))~~ child of the member, unemancipated or under eighteen years of age, dependent upon the member for support at the time of his or her death, to a maximum total of ~~((four))~~ one thousand two hundred dollars per month~~((:PROVIDED; That))~~.

(2) If the widow or widower does not have legal custody of one or more dependent children of the deceased fireman or if, after the death of the fireman, legal custody of such child or children passes from the widow or widower to another person, any payment on account of such child or children not in the legal custody of the widow or widower shall be made to the person or persons having legal custody of such child or children. Such payments on account of such child or children shall be subtracted from the amount to which such widow or widower would have been entitled had such widow or widower had legal custody of all the children and the widow or widower shall receive the remainder after such payments on account of such child or children have been subtracted. If there is no widow or widower, or the widow or widower dies while there are children, unemancipated or under eighteen years of age, then the amount of ~~((one))~~ six hundred ~~((eighty))~~ dollars per month shall be paid for the youngest or only child together with an additional ~~((thirty-five))~~ fifty dollars per month for each additional of such children to a maximum of ~~((four))~~ one thousand two hundred dollars per month until they become emancipated or reach the age of eighteen years; and if there are no widow or widower, child, or children entitled thereto, then to his or her parents or either of them the sum of ~~((one))~~ six hundred ~~((eighty))~~ dollars per month for life, if it is proved to the satisfaction of the board that the parents, or either of them, were dependent on the deceased for their support at the time of his or her death~~((:PROVIDED; That))~~. In any instance in subsections (1) and (2) of this section, if the widow or widower, child or children, or the parents, or either of them,

~~((marry))~~ marries while receiving such pension the person so marrying shall thereafter receive no further pension from the fund.

(3) In the case provided for ~~((herein))~~ in this section, the monthly payment provided may be converted in whole or in part~~((:))~~ into a lump sum payment, not in any case to exceed twelve thousand dollars, equal or proportionate, as the case may be, to the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made either upon written application to the state board and shall rest in the discretion of the state board; or the state board is authorized to make, and authority is hereby given it to make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of the annuity then remaining in full satisfaction of claims due to dependents. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the applicant and the state board. Any person receiving a monthly payment ~~((hereunder at the time of the effective date of this act))~~ under this section on June 29, 1961, may elect, within two years, to convert such payments into a lump sum payment as ~~((herein))~~ provided in this section.

Sec. 3. Section 23, chapter 261, Laws of 1945 as last amended by section 3, chapter 21, Laws of 1981 and RCW 41.24.230 are each amended to read as follows:

Upon the death of any fireman resulting from injuries or sickness in consequence or as the result of the performance of his or her duties, the board of trustees shall authorize the issuance of a voucher for the sum of ~~((one))~~ two thousand dollars, and upon the death of any fireman who is receiving any disability pension provided for in this chapter, the board of trustees shall authorize the issuance of a voucher for the sum of five hundred dollars, to help defray the funeral expenses and burial of such fireman, which voucher shall be paid in the manner provided for payment of other charges against the fund.

Passed the Senate February 12, 1986.

Passed the House March 4, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

CHAPTER 164

[Senate Bill No. 4569]

SPORT FISHING LICENSES

AN ACT Relating to sport fishing licenses; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds the current dual sport fishing license requirements of the department of fisheries and department of game to be unnecessarily complicated and potentially confusing to the general public particularly as increasing public participation in recreational fishing increases pressure on the state's fishery resources.

The director of the department of fisheries and the director of the department of game shall conduct a joint feasibility study on simplification and consolidation of sport fishing licenses, which may be otherwise defined as personal use or recreational angling licenses, into a single license document enabling a person to fish for both food fish and game fish. The study shall also investigate simplification and consolidation of punchcards and other catch-recording documents into a single record. Consideration shall be given to the following factors: Maximum convenience to persons engaging in sport fishing, simplified format for the license dealers, fiscal accountability to the general fund and game fund, reasonable contribution by recreational users toward the cost of fishery management, maximum efficiency of administration by department personnel, accuracy of biologic data collection, and acceptance by the general public.

The directors shall present a joint report to the committees on ways and means and natural resources of the senate and house of representatives on or before January 1, 1987. The report shall contain recommended legislation for implementing the findings of the directors.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 165

[Substitute Senate Bill No. 4888]

USED MOTOR VEHICLE SALES—VEHICLE DEALER TO DISCLOSE PRICE

AN ACT Relating to motor vehicle dealers; and adding a new section to chapter 46.70 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.70 RCW to read as follows:

A vehicle dealer who sells used vehicles shall either display on the vehicle, or disclose upon request, the written asking price of a specific vehicle offered for sale by the dealer as of that time.

A violation of this section is an unfair business practice under chapter 19.86 RCW, the Consumer Protection Act, and the provisions of chapter 46.70 RCW.

Passed the Senate March 9, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 166

[Substitute House Bill No. 160]

PREADMISSION SCREENING—COMMON SCHOOLS

AN ACT Relating to preadmission screening; and amending RCW 28A.58.190.

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

Sec. 1. Section 28A.58.190, chapter 223, Laws of 1969 ex. sess. as last amended by section 4, chapter 250, Laws of 1979 ex. sess. and RCW 28A.58.190 are each amended to read as follows:

Except as otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than twenty-one years residing in that school district. Except as otherwise provided by law, the state board of education is hereby authorized to adopt rules in accordance with chapter 34.04 RCW which establish uniform entry qualifications, including but not limited to birth date requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for exceptions based upon the ability, or the need, or both, of an individual student. For the purpose of complying with any rule adopted by the state board of education which authorizes a preadmission screening process as a prerequisite to granting exceptions to the uniform entry qualifications, a school district may collect fees not to exceed seventy-five dollars per preadmission student to cover expenses incurred in the administration of such a screening process: PROVIDED, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees.

Passed the House March 11, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 167

[Substitute House Bill No. 1349]

ELECTIONS—PRECINCTS—VOTER REGISTRATION—SPECIAL
ELECTIONS—ELECTION COSTS—BALLOTS—OATHS OF OFFICE

AN ACT Relating to elections; amending RCW 29.04.040, 29.04.055, 29.07.065, 29.13.020, 29.18.025, 29.21.060, 29.30.010, 29.30.081, 29.30.310, 29.34.125, 29.36.010, 29.51.110, 28A.57.322, 35.23.190, 35.24.080, 35.27.120, 35A.12.080, 35A.29.110, 52.14.070, 54.12.100, and 68.16.180; adding a new section to chapter 29.01 RCW; adding a new section to chapter 29.07 RCW; adding a new section to chapter 29.13 RCW; and repealing RCW 29.07.150, 29.51.090, and 29.54.180.

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

NEW SECTION. Sec. 1. A new section is added to chapter 29.01 RCW to read as follows:

"Election board" means a group of election officers serving one precinct or groups of precincts in a polling place.

Sec. 2. Section 3, chapter 107, Laws of 1980 and RCW 29.04.040 are each amended to read as follows:

(1) No paper ballot precinct (~~shall~~) may contain more than three hundred voters. The county legislative authority may divide, alter, or combine precincts so that, whenever practicable, over-populated precincts shall contain no more than two hundred fifty registered voters in anticipation of future growth.

(2) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored(~~(-PROVIDED, HOWEVER, That)~~). Except as permitted under subsection (5) of this section, no precinct boundaries (~~shall~~) may be changed during the period starting (~~(as of)~~) on the thirtieth day prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred registered voters(~~(-PROVIDED, That)~~), but there shall be at least one voting machine or device for each three hundred registered voters or major fraction thereof when a state primary or general election is held in an even-numbered year.

(4) On petition of twenty-five or more voters resident more than ten miles from any place of election, the county legislative authority shall establish a separate voting precinct therefor.

(5) The county auditor shall temporarily adjust precinct boundaries when a city annexes county territory to the city. The adjustment shall be made as soon as possible after the approval of the annexation. The temporary adjustment shall be limited to the minimum changes necessary to accommodate the addition of the territory to the city and shall remain in

effect only until precinct boundary modifications reflecting the annexation are adopted by the county legislative authority.

The county legislative authority may establish by ordinance a limitation on the maximum number of registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for such precincts and the number may be less than the number established by law, but in no case may the number exceed that authorized by law.

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts with two hundred fifty voters or less and establish the boundaries of the ~~((same;))~~ precincts. The county auditor shall thereupon designate the voting place for each such precinct.

Sec. 3. Section 29.04.055, chapter 9, Laws of 1965 as last amended by section 5, chapter 361, Laws of 1977 ex. sess. and RCW 29.04.055 are each amended to read as follows:

At any election, general or special, or at any primary, the ~~((election authority))~~ county auditor may combine, unite, or divide precincts and may combine or unite election boards for the purpose of holding such election(~~(: PROVIDED, That in the event such election shall be held upon the day of any state primary or state general election held in an even-numbered year this section shall not apply))~~).

Sec. 4. Section 2, chapter 21, Laws of 1973 1st ex. sess. and RCW 29.07.065 are each amended to read as follows:

In addition to other information required by this chapter, each applicant for registration shall establish his identity, unless personally known by the registration officer, by producing at least one of the following items:

(1) A social security card containing the applicant's signature. Whenever the social security record is so used, the registration officer shall enter the applicant's social security number upon the appropriate registration forms;

(2) A driver's license which contains the signature and/or a photograph of the applicant;

(3) A valid Washington state identicaid;

(4) A nationally or regionally known credit card containing the signature and/or photograph of the applicant;

(5) An identification card issued by the United States, any state or any agency of either, of a kind commonly used to identify the members or employees of such government agencies (including military I.D. cards), and which contain the signature and/or the photograph of the applicant.

In addition, whenever the registration officer has a doubt as to whether the applicant is of legal voting age, such officer ~~((may))~~ shall require the applicant to produce a record ~~((which))~~ that establishes the applicant's date of birth.

Failure to produce such identification except when necessary to establish the applicant's date of birth at the time of registration as set forth in this section shall not deter the act of registration: PROVIDED, That registration officials shall indicate on the registration form by checking either "identification produced" or "identification not produced".

NEW SECTION. Sec. 5. A new section is added to chapter 29.07 RCW to read as follows:

The county auditor shall have custody of the voter registration records for each county and shall maintain those records in accordance with this section.

(1) The original voter registration form, as established by RCW 29.07.070, shall be filed alphabetically without regard to precinct and shall not be available for public inspection and copying.

(2) An automated file of all registered voters shall be maintained pursuant to RCW 29.07.220, which shall be the source of the precinct lists of registered voters used at the polls on election day. Lists of registered voters produced from the automated file are public records and are thus available for inspection and copying.

Sec. 6. Section 29.13.020, chapter 9, Laws of 1965 as last amended by section 2, chapter 3, Laws of 1980 and RCW 29.13.020 are each amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

((+)) (a) Elections for the recall of any elective public officer((-));

((+)) (b) Public utility districts((-) or district elections ((~~whereat~~)) at which the ownership of property within ((said)) those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto((-));

((+)) (c) Consolidation proposals as provided for in RCW 28A.57.180 and nonhigh capital fund aid proposals as provided for in chapter 28A.56 RCW.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to him at least forty-five days prior to the proposed election date, may, if he deems an emergency to exist, call a special election in such city, town, or district, and for the purpose of such special election he may combine, unite, or divide precincts. A special election called by such governing body shall be held on one of the following dates as decided by the governing body:

(a) The first Tuesday after the first Monday in February;

(b) The second Tuesday in March, except that if a state-wide political party caucus by a major political party is scheduled on the second Tuesday,

then a special election may not be held on such date but may be held on the third Tuesday in March (~~(-PROVIDED HOWEVER, That in any county holding an election on the second Tuesday in March of 1980 pursuant to a home-rule charter adopted under Article XI, section 4 of the state Constitution, any city, town, or district where any portion of the registered voters of that city, town, or district reside within that charter county may hold special elections on the second Tuesday in March of 1980))~~);

(c) The first Tuesday after the first Monday in April;

(d) The third Tuesday in May;

(e) The day of the primary election as specified by RCW 29.13.070; or

(f) The first Tuesday after the first Monday in November.

In addition to (a) through (f) above, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from failure of a school or junior taxing district to pass a special levy or bond issue for the first time or from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in (e) and (f) of this subsection. Such special election shall be conducted and notice thereof given in the manner provided by law.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

NEW SECTION. Sec. 7. A new section is added to chapter 29.13 RCW to read as follows:

For any reimbursement of election costs under RCW 29.13.047, the secretary of state shall pay interest at an annual rate equal to two percentage points in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve bank in San Francisco on the fifteenth day of the month immediately preceding the payment for any period of time in excess of thirty days after the receipt of a properly executed and documented voucher for such expenses and the entry of an allotment from specifically appropriated funds for this purpose under RCW 43.88.111. The secretary of state shall promptly notify any county that submits an incomplete or inaccurate voucher for reimbursement under RCW 29.13.047.

Sec. 8. Section 2, chapter 142, Laws of 1984 and RCW 29.18.025 are each amended to read as follows:

Except where otherwise provided by state law, declarations of candidacy for the following offices shall be filed during regular business hours with the secretary of state or the county auditor no earlier than the ~~((last))~~ fourth Monday in July and no later than the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

Sec. 9. Section 29.21.060, chapter 9, Laws of 1965 as last amended by section 31, chapter 361, Laws of 1977 ex. sess. and RCW 29.21.060 are each amended to read as follows:

All candidates for offices to be voted on at any election in first, second, and third class cities and fourth class municipalities (towns) shall file declarations of candidacy with the county auditor not earlier than the ~~((last))~~ fourth Monday of July nor later than the next succeeding Friday in the year such regular city elections are held.

All candidates for district offices subject to the provisions of RCW 29.21.010(~~(, as now or hereafter amended,)~~) shall file their declarations of candidacy with the county auditor of the county not earlier than the ~~((last))~~ fourth Monday of July nor later than the next succeeding Friday in the year such regular district elections are held: PROVIDED, That this chapter shall not change the method of nomination for first district officers at the formation of any district.

Any candidate for city, town, or district offices may withdraw his declaration at any time ~~((to and including the first Wednesday after))~~ before the Friday following the last day allowed for filing declarations of candidacy.

All candidates required to file declarations of candidacy shall pay the same fees and be governed by the same rules as contained in RCW 29.18.030 through 29.18.100(~~(-PROVIDED, That)),~~ but no filing fee ~~((shall))~~ may be charged ~~((in the event that))~~ if the office sought is without a fixed annual salary.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for filing declarations of candidacy for such city, town, and district elections, the purpose of this section being to establish a uniform five-day period throughout the state of Washington for filing declarations of candidacy.

Sec. 10. Section 29.30.010, chapter 9, Laws of 1965 as amended by section 51, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.010 are each amended to read as follows:

Every primary paper ballot shall be uniform in color and size, shall be white and printed in black ink. Each ballot shall be identified at the top with the words, "Primary Election Ballot," and below that, the county in which the ballot is to be used, the date of the primary, and the instruction: "To vote for a person mark a cross in the first square at the right of the name of the person for whom you desire to vote. To vote for a person not on

the ballot, write in the name of the candidate, and the party affiliation if for a partisan office, in the space provided." Beginning at the top of the left hand column, at the left of the line shall appear the name of the position for which the names following are candidates, and to the extreme right of the same line the words, "Vote for," then the words "One," "Two," or a spelled number designating how many persons under that head are to be voted for. Below this shall come the names of all candidates for that position, each followed by the name of the political party, if any, with which the candidate desires to affiliate or the word "nonpartisan", with a square to the right. Each position with the names running for that office, shall be separated from the following one by a bold line. All primary paper ballots shall be sequentially numbered, but done in such a way to permit removal of such numbers ((by precinct election workers)) without revealing the identity of any individual voter. There shall be no printing upon the back of the ballots nor any mark thereon to distinguish them.

Sec. 11. Section 60, chapter 361, Laws of 1977 ex. sess. as amended by section 1, chapter 121, Laws of 1982 and RCW 29.30.081 are each amended to read as follows:

(1) On the top of each general election paper ballot there shall be printed instructions directing the voters how to mark the ballot, including write-in votes. Next after the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters of such election.

(2) The candidate or candidates of the major political party which received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election shall appear first below the office heading, the candidate or candidates of the other major political parties shall follow according to the votes cast for their nominees for president at the last presidential election, and the candidate or candidates of all other parties shall follow in the order of their qualification with the secretary of state. The candidates for nonpartisan offices shall be listed in the manner otherwise provided by law. There shall be blank spaces for writing in the name of any candidate, if desired, on the ballot.

(3) There shall be a at the right of the name of each nominee so that a voter may clearly indicate the candidate or the candidates for whom he wishes to cast his ballot.

(4) Under the designation of the office there shall be indicated the number of candidates to such office to be voted for at such election.

(5) If the election is in a year in which a president of the United States is to be elected, the names of candidates for president and vice president for each political party shall be grouped together, each group enclosed in brackets with a single square to the right in which the voter indicates his choice.

(6) All paper ballots for general elections shall be sequentially numbered, but done in such a way to permit removal of such numbers (~~(by precinct election workers)~~) without leaving any identifying marks on the ballot. There shall be no printing on the back of the paper ballots nor any mark thereon to distinguish them.

Sec. 12. Section 33, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.310 are each amended to read as follows:

All ballot pages for primary, general, or special elections in counties using voting devices shall be uniform in color and size, shall be white, and shall be printed in black ink. The first page shall be identified at the top with the name of the election, the county in which the ballot page is to be used, and the date of the election. On the front of the first ballot page or prominently displayed on each voting device to be used at a primary, general, or special election, there shall be printed instructions directing the voters how to properly record a vote for any candidate and for or against any measure. Beginning at the top of the left hand column, at the left of the line shall appear the name of the position for which the names to the immediate right are candidates, and below the name of the office or position the words, "Vote for", then the words "One", "Two", or a spelled number designating how many persons under that head are to be voted for. Immediately to the right of the name of the office or position shall come the names of all candidates for that position, each followed by the name of the political party, if any, with which the candidate desires to affiliate or the word "nonpartisan", with an arrow or other notation at the right edge of the ballot page indicating where the voter is to punch or otherwise mark his ballot for that candidate. Each position with the names running for that office, shall be separated from the following one by a bold line. All ballot cards for primary elections shall be sequentially numbered, but done in such a way to permit removal of such numbers (~~(by precinct election workers)~~) without leaving any identifying marks on the ballot. There shall be no marks on the ballot cards which would distinguish an individual voter's ballot card from other ballot cards in the same precinct.

Sec. 13. Section 67, chapter 361, Laws of 1977 ex. sess. and RCW 29.34.125 are each amended to read as follows:

(1) On the front of the first ballot page or prominently displayed on each voting device to be used at a general election, there shall be printed instructions directing the voters how to properly record a vote for any candidate and for or against any measure, including write-in votes. After the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters of such election.

(2) All nominations of any party or group of petitioners shall be indicated by the title of such party or petitioners as designated by them in their certificate of nomination or petition, following the name of such candidate,

and the name of each nominee shall be placed beside the designation of the office for which he has been nominated.

(3) There shall be an arrow or other notation at the right edge of the ballot page opposite the name of each candidate indicating where the voter is to punch or otherwise mark his ballot card for that candidate.

(4) Under the designation of the office, if more than one candidate is to be voted for there shall be indicated the number of candidates to such office to be voted for at such election.

(5) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line, shall be the names and spaces for voting for candidates for president and vice president. The names of candidates for president and vice president for each political party shall be grouped together, each group enclosed in brackets with a single arrow or other notation to the right.

(6) All ballot cards for general elections shall be sequentially numbered, but done in such a way to permit removal of such numbers (~~by precinct election workers~~) without leaving any identifying marks on the ballot. There shall be no printing on the back of the ballot cards nor any mark thereon to distinguish an individual voter's ballot card from other ballot cards from the same precinct.

Sec. 14. Section 29.36.010, chapter 9, Laws of 1965 as last amended by section 1, chapter 273, Laws of 1985 and RCW 29.36.010 are each amended to read as follows:

Any duly registered voter may vote an absentee ballot for any primary or election in the manner provided in this chapter.

(1) Except as provided in subsections (2) and (3) of this section and RCW 29.36.013, a registered voter desiring to cast an absentee ballot must apply in writing to his or her county auditor no earlier than forty-five days nor later than the day before any election or primary.

(2) An application honored for a primary ballot shall also be honored as an application for a ballot for the following general election if the voter so indicates on his or her application.

(3) A voter admitted to a hospital no earlier than five days before a primary or election and confined to the hospital on election day may apply by messenger for an absentee ballot on the day of the primary or election if a signed statement from the hospital administrator, or designee, verifying the voter's date of admission and status as a patient in the hospital on the day of the primary or election is attached to the absentee ballot application.

(4) (~~Such applications must contain the voter's signature and may be made in person, by mail, or messenger.~~) The application must be signed by the voter, and except as provided under chapter 29.39 RCW, an application for an absentee ballot ((shall not be approved)) is not valid unless the voter's signature ((upon)) on the application ((compares favorably with the)) is

substantially the same as that voter's signature ((upon)) on his or her registration record.

(5) An application for an absentee ballot shall be delivered to the county auditor of the county in which the voter is registered either in person, by mail, or by messenger. An absentee ballot application from a registered voter within this state shall be sent directly to the auditor of the county in which the voter is registered. An absentee ballot application from a registered voter who is temporarily outside this state may be sent either to the appropriate county auditor or to the secretary of state, who shall promptly forward the application to the appropriate county auditor. No person, organization, or association may distribute absentee ballot applications within this state that contains any return address other than that of a county auditor.

Sec. 15. Section 29.51.110, chapter 9, Laws of 1965 as amended by section 43, chapter 202, Laws of 1971 ex. sess. and RCW 29.51.110 are each amended to read as follows:

Upon delivery of each ballot after being marked and folded by a voter, the inspector ((in an audible tone shall repeat the name of the voter and the number of the ballot. The election clerks having in charge the registration cards and poll books or precinct lists of registered voters, if they find that the number marked opposite the voter's name thereon corresponds with the number of the ballot handed to the inspector, shall mark the word "voted" or check a spot so designated opposite the name of such voter and one of the clerks shall call back in an audible tone the name of the voter and the number of his ballot. The inspector)) shall ((then)) separate the slip containing the number of the ballot from the ballot and shall deposit the ballot in the ballot box. ((The numbers removed from the ballots shall be destroyed immediately:)) The inspector shall, however, permit any voter expressing a desire to separate his or her own slip or to deposit his or her own ballot, or both, to do so. Any voter detaching or separating the number slip must return that slip to the inspector.

Sec. 16. Section 28A.57.322, chapter 223, Laws of 1969 ex. sess. and RCW 28A.57.322 are each amended to read as follows:

Every person elected or appointed to the office of school director, before entering upon the discharge of the duties thereof, shall take an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of his office according to the best of his ability. In case any official has a written appointment or commission, his oath or affirmation shall be endorsed thereon and sworn to before any officer authorized to administer oaths. School officials are hereby authorized to administer all oaths or affirmations pertaining to their respective offices without charge or fee. All oaths of office, when properly made, shall be filed with the ((officer with whom declarations of candidacy for such positions are filed)) county auditor.

Sec. 17. Section 35.23.190, chapter 7, Laws of 1965 and RCW 35.23-.190 are each amended to read as follows:

Before entering upon his duties and within ten days after receiving notice of his election or appointment every officer of the city shall qualify by taking the oath of office and by filing such bond duly approved as may be required of him. The oath of office shall be filed with the county auditor. If no notice of election or appointment was received, the officer must qualify on or before the date fixed for the assumption by him of the duties of the office to which he was elected or appointed. The city council shall fix the amount of all official bonds and may designate what officers shall be required to give bonds in addition to those required to do so by statute.

The clerk, treasurer, city attorney, chief of police, police judge and street commissioner shall each execute an official bond in such penal sum as the city council by ordinance may determine, conditioned for the faithful performance of their duties, including in the same bond the duties of all offices of which he is the ex officio incumbent.

All official bonds shall be approved by the city council and when so approved shall be filed with the city clerk except the city clerk's which shall be filed with the mayor. No city officer shall be eligible as a surety upon any bond running to the city as obligee.

The city council may require a new or additional bond of any officer whenever it deems it expedient.

Sec. 18. Section 35.24.080, chapter 7, Laws of 1965 and RCW 35.24-.080 are each amended to read as follows:

In a city of the third class, the treasurer, city attorney, clerk, police judge, chief of police, and such other officers as the council may require shall each, before entering upon the duties of his office, take an oath of office and execute and file with the clerk an official bond in such penal sum as the council shall determine, conditioned for the faithful performance of his duties and otherwise conditioned as may be provided by ordinance. The oath of office shall be filed with the county auditor.

Sec. 19. Section 35.27.120, chapter 7, Laws of 1965 and RCW 35.27-.120 are each amended to read as follows:

Every officer of a town before entering upon the duties of his office shall take and file with the ~~((town clerk))~~ county auditor his oath of office. The clerk, treasurer, and marshal before entering upon their respective duties shall also each execute a bond approved by the council in such penal sum as the council by ordinance may determine, conditioned for the faithful performance of his duties including in the same bond the duties of all offices of which he is made ex officio incumbent.

All bonds, when approved, shall be filed with the town clerk, except the bonds of the clerk which shall be filed with the mayor.

Sec. 20. Section 35A.12.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.12.080 are each amended to read as follows:

Any officer before entering upon the performance of his duties may be required to take an oath or affirmation as prescribed by charter or by ordinance for the faithful performance of his duties. The oath or affirmation shall be filed with the county auditor. The clerk, treasurer, if any, chief of police, and such other officers or employees as may be designated by ordinance or by charter shall be required to furnish annually an official bond conditioned on the honest and faithful performance of their official duties. The terms and penalty of official bonds and the surety therefor shall be prescribed by ordinance or charter and the bond shall be approved by the chief administrative officer of the city. The premiums on such bonds shall be paid by the city. When the furnishing of an official bond is required of an officer or employee, compliance with such provisions shall be an essential part of qualification for office.

Sec. 21. Section 35A.29.110, chapter 119, Laws of 1967 ex. sess. as last amended by section 30, chapter 18, Laws of 1979 ex. sess. and RCW 35A.29.110 are each amended to read as follows:

A candidate for office in a code city shall file a declaration of candidacy substantially in the form set forth in RCW 29.18.030 insofar as such form is applicable to nonpartisan offices. Declarations of candidacy for offices of code cities to be voted upon at any municipal general election shall be filed with the county auditor not earlier than the ~~((fast))~~ fourth Monday of July nor later than the next succeeding Friday in the year such general election is to be held ~~((PROVIDED, That))~~. However, if the first election of all officers upon reorganization as a noncharter code city under a plan of government newly adopted in the manner provided in RCW 35A.02.020, 35A.02.030, 35A.02.080, or 35A.06.030 ~~((as now or hereafter amended))~~ is an election as provided in RCW 35A.02.050 ~~((as now or hereafter amended))~~, such declarations of candidacy shall be filed with the county auditor not more than fifty nor less than forty-six days prior to the primary election provided for in RCW 35A.02.050 ~~((as amended))~~. Any candidate may withdraw his declaration at any time ~~((but not later than five days after))~~ before the Friday following the last day allowed for filing declarations of candidacy. Nominating petitions for charter commissioners and for any other office for which nominating petitions may be required shall be filed with the county auditor not more than sixty nor less than forty-six days prior to the date of the election, and may be withdrawn at any time, but not later than five days after the last day allowed for filing such petitions.

Sec. 22. Section 29, chapter 34, Laws of 1939 as amended by section 34, chapter 230, Laws of 1984 and RCW 52.14.070 are each amended to read as follows:

Before beginning the duties of office, each fire commissioner shall take and subscribe the official oath for the faithful discharge of the duties of

office as required by RCW 29.01.135, which oath shall be filed in the office of the (~~clerk of the superior court in~~) auditor of the county in which the district is situated.

Sec. 23. Section 10, chapter 265, Laws of 1959 and RCW 54.12.100 are each amended to read as follows:

Each commissioner before he enters upon the duties of his office shall take and subscribe an oath or affirmation that he will faithfully and impartially discharge the duties of his office to the best of his ability. This oath, or affirmation, shall be administered and certified by an officer of the county in which the district is situated, who is authorized to administer oaths, without charge therefor. The oath or affirmation shall be filed with the county auditor.

Sec. 24. Section 18, chapter 6, Laws of 1947 and RCW 68.16.180 are each amended to read as follows:

Each cemetery commissioner, before assuming the duties of his office, shall take and subscribe an official oath to faithfully discharge the duties of his office, which oath shall be filed in the office of the county (~~clerk~~) auditor.

NEW SECTION. Sec. 25. The following acts or parts of acts are each repealed:

(1) Section 29.07.150, chapter 9, Laws of 1965, section 19, chapter 202, Laws of 1971 ex. sess. and RCW 29.07.150;

(2) Section 29.51.090, chapter 9, Laws of 1965 and RCW 29.51.090; and

(3) Section 95, chapter 361, Laws of 1977 ex. sess. and RCW 29.54-.180.

NEW SECTION. Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 168

[Substitute House Bill No. 1413]

LOCAL GOVERNMENT REVENUE BONDS

AN ACT Relating to revenue bonds; and adding new sections to chapter 39.46 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 39.46 RCW to read as follows:

(1) Any local government authorized to issue revenue bonds may issue revenue bonds under this section and section 2 of this act. If a local government chooses to issue revenue bonds under this section and section 2 of this act, the issue shall be subject to the limitations and restrictions of these sections. The authority to issue revenue bonds under this section and section 2 of this act is supplementary and in addition to any authority otherwise existing. The maximum term of any revenue bonds shall be forty years unless another statute authorizing the local government to issue revenue bonds provides for a different maximum term, in which event the local government may issue revenue bonds only with terms not in excess of such different maximum term.

(2) The governing body of a local government issuing revenue bonds shall create a special fund or funds, or use an existing special fund or funds, exclusively from which, along with reserve funds which may be created by the governing body, the principal and interest on such revenue bonds shall be payable. These reserve funds include those authorized to be created by section 2 of this act.

Subject to the limitations contained in this section, the governing body of a local government may provide such covenants as it may deem necessary to secure the payment of the principal of and interest on revenue bonds, and premium on revenue bonds, if any. Such covenants may include, but are not limited to, depositing certain revenues into a special fund or funds as provided in subsection (3) of this section; establishing, maintaining, and collecting fees, rates, charges, tariffs, or rentals, on facilities and services, the income of which is pledged for the payment of such bonds; operating, maintaining, managing, accounting, and auditing the local government; appointing trustees, depositaries, and paying agents; and any and all matters of like or different character, which affect the security or protection of the revenue bonds.

(3) The governing body may obligate the local government to set aside and pay into a special fund or funds created under subsection (2) of this section a proportion or a fixed amount of the revenues from the following: (a) The public improvements, projects, or facilities that are financed by the revenue bonds; or (b) the public utility or system, or an addition or extension to the public utility or system, where the improvements, projects, or facilities financed by the revenue bonds are a portion of the public utility or system; or (c) all the revenues of the local government; or (d) any other money legally available for such purposes. As used in this subsection, the term "revenues" includes the operating revenues of a local government that result from fees, rates, charges, tariffs, or rentals imposed upon the use or availability or benefit from projects, facilities, or utilities owned or operated by the local government and from related services provided by the local

government and other revenues legally available to be pledged to secure the revenue bonds.

The proportion or fixed amount of revenue so obligated shall be a lien and charge against these revenues, subject only to maintenance and operating expenses. The governing body shall have due regard for the cost of maintenance and operation of the public utility, system, improvement, project, facility, addition, or extension that generates revenues obligated to be placed into the special fund or funds from which the revenue bonds are payable, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues that in its judgment will be available over and above such cost of maintenance and operation and the proportion or fixed amount, if any, of the revenue so previously pledged. Other revenues, including tax revenues, lawfully available for maintenance or operation of revenue generating facilities may be used for maintenance and operation purposes even though the facilities are acquired, constructed, expanded, replaced, or repaired with moneys arising from the sale of revenue bonds. However, the use of these other revenues for maintenance and operation purposes shall not be deemed to directly or indirectly guarantee the revenue bonds or create a general obligation. The obligation to maintain and impose fees, rates, charges, tariffs, or rentals at levels sufficient to finance maintenance and operations shall remain if the other revenues available for such purposes diminish or cease.

The governing body may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(4) A revenue bond issued by a local government shall not constitute an obligation of the state, either general or special, nor a general obligation of the local government issuing the bond, but is a special obligation of the local government issuing the bond, and the interest and principal on the bond shall only be payable from the special fund or funds established pursuant to subsection (2) of this section, the revenues lawfully pledged to the special fund or funds, and any lawfully created reserve funds. The owner of a revenue bond shall not have any claim for the payment thereof against the local government arising from the revenue bond except for payment from the special fund or funds, the revenues lawfully pledged to the special fund or funds, and any lawfully created reserve funds. The owner of a revenue bond issued by a local government shall not have any claim against the state arising from the revenue bond. Tax revenues shall not be used directly or indirectly to secure or guarantee the payment of the principal of or interest on revenue bonds.

The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each revenue bond that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the bonds.

(6) The authority to create a fund shall include the authority to create accounts within a fund.

(7) Local governments issuing revenue bonds, payable from revenues derived from projects, facilities, or utilities, shall covenant to maintain and keep these projects, facilities, or utilities in proper operating condition for their useful life.

NEW SECTION. Sec. 2. A new section is added to chapter 39.46 RCW to read as follows:

Any local government issuing revenue bonds under this section and section 1 of this act may include in the amount of any such issue money for the purpose of establishing, maintaining, or increasing reserve funds to:

(1) Secure the payment of the principal of and interest on such revenue bonds; or

(2) Provide for replacements or renewals of or repairs or betterments to revenue producing facilities; or

(3) Provide for contingencies, including, but not limited to, loss of revenue caused by such contingencies.

Passed the House February 13, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 169

[House Bill No. 1419]

TAXING DISTRICTS—PROPERTY TAX—LIMITED WAIVER OF THE ONE HUNDRED SIX PERCENT PROPERTY TAX LIMIT

AN ACT Relating to limited waiver of the one hundred six percent property tax limit; and amending RCW 84.55.050.

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

Sec. 1. Section 24, chapter 288, Laws of 1971 ex. sess. as last amended by section 3, chapter 218, Laws of 1979 ex. sess. and RCW 84.55.050 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than twelve months prior to the date on which the proposed levy is to be made. The ballot of the proposition shall state the dollar rate proposed.

(2) After a levy authorized pursuant to this section is made, the dollar amount of such levy shall be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, except as provided in subsection (4) of this section.

(3) A proposition placed before the voters under this section may:

(a) Limit the period for which the increased levy is to be made;

(b) Limit the purpose for which the increased levy is to be made;

(c) Set the levy at a rate less than the maximum rate allowed for the district; or

(d) Include any combination of the conditions in this subsection.

(4) After the expiration of a limited period or the satisfaction of a limited purpose, whichever comes first, subsequent levies shall be computed as if:

(a) The limited proposition under subsection (3) of this section had not been approved; and

(b) The taxing district had made levies at the maximum rates which would otherwise have been allowed under this chapter during the years levies were made under the limited proposition.

Passed the House January 24, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 170

[House Bill No. 1462]

LONG-TERM CARE INSURANCE ACT—NURSING HOME INSURANCE

AN ACT Relating to nursing home insurance; adding a new chapter to Title 48 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. This chapter may be known and cited as the "long-term care insurance act" and is intended to govern the content and sale of long-term care insurance and long-term care benefit contracts as defined in this chapter. This chapter shall be liberally construed to promote the public interest in protecting purchasers of long-term care insurance from unfair or deceptive sales, marketing, and advertising practices. The provisions of this chapter shall apply in addition to other requirements of Title 48 RCW.

NEW SECTION. Sec. 2. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Long-term care insurance" or "long-term care benefit contract" means any insurance policy or benefit contract primarily advertised, marketed, offered, or designed to provide coverage or services for either institutional or community-based convalescent, custodial, chronic, or terminally ill care. Such terms do not include and this chapter shall not apply to policies or contracts governed by chapter 48.66 RCW and continuing care retirement communities.

(2) "Loss ratio" means the incurred claims plus or minus the increase or decrease in reserves as a percentage of the earned premiums, or the projected incurred claims plus or minus the increase or decrease in projected reserves as a percentage of projected earned premiums, as defined by the commissioner.

(3) "Preexisting condition" means a covered person's medical condition that caused that person to have received medical advice or treatment during the specified time period before the effective date of coverage.

(4) "Medicare" means Title XVIII of the United States social security act, or its successor program.

(5) "Medicaid" means Title XIX of the United States social security act, or its successor program.

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

NEW SECTION. Sec. 3. (1) The commissioner shall adopt rules requiring reasonable benefits in relation to the premium or price charged for long-term care policies and contracts which rules may include but are not limited to the establishment of minimum loss ratios.

(2) In addition, the commissioner may adopt rules establishing standards for long-term care coverage benefit limitations, exclusions, exceptions, and reductions and for policy or contract renewability.

NEW SECTION. Sec. 4. No long-term care insurance policy or benefit contract may:

(1) Use riders, waivers, endorsements, or any similar method to limit or reduce coverage or benefits;

(2) Indemnify against losses resulting from sickness on a different basis than losses resulting from accidents;

(3) Be canceled, nonrenewed, or segregated at the time of rating solely on the grounds of the age or the deterioration of the mental or physical health of the covered person;

(4) Exclude or limit coverage for preexisting conditions for a period of more than one year prior to the effective date of the policy or contract or more than six months after the effective date of the policy or contract;

(5) Differentiate benefit amounts on the basis of the type or level of nursing home care provided;

(6) Contain a provision establishing any new waiting period in the event an existing policy or contract is converted to a new or other form within the same company.

NEW SECTION. Sec. 5. (1) The commissioner shall adopt rules requiring disclosure to consumers of the level, type, and amount of benefits provided and the limitations, exclusions, and exceptions contained in a long-term care insurance policy or contract. In adopting such rules the commissioner shall require an understandable disclosure to consumers of any cost for services that the consumer will be responsible for in utilizing benefits covered under the policy or contract.

(2) Each long-term care insurance policy or contract shall include a provision, prominently displayed on the first page of the policy or contract, stating in substance that the person to whom the policy or contract is sold shall be permitted to return the policy or contract within thirty days of its delivery. In the case of policies or contracts solicited and sold by mail, the person may return the policy or contract within sixty days. Once the policy or contract has been returned, the person may have the premium refunded if, after examination of the policy or contract, the person is not satisfied with it for any reason. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy or contract to the insurer or agent. If a person, pursuant to such notice, returns the policy or contract to the insurer at its branch or home office, or to the agent from whom the policy or contract was purchased, the policy or contract shall be void from its inception, and the parties shall be in the same position as if no policy or contract had been issued.

NEW SECTION. Sec. 6. No agent, broker, or other representative of an insurer, contractor, or other organization selling or offering long-term care insurance policies or benefit contracts may: (1) Complete the medical history portion of any form or application for the purchase of such policy or contract; (2) knowingly sell a long-term care policy or contract to any person who is receiving medicaid; or (3) use or engage in any unfair or deceptive act or practice in the advertising, sale, or marketing of long-term care policies or contracts.

NEW SECTION. Sec. 7. Commencing with reports for accounting periods beginning on or after January 1, 1988, all insurers, fraternal benefit societies, health care services contractors, and health maintenance organizations shall, for reporting and record keeping purposes, separate data concerning long-term care insurance policies and contracts from data concerning other insurance policies and contracts.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act shall constitute a new chapter in Title 48 RCW.

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. Section 6 of this act shall take effect on November 1, 1986, and the commissioner shall adopt all rules necessary to implement section 6 of this act by its effective date including rules prohibiting particular unfair or deceptive acts and practices in the advertising, sale, and marketing of long-term care policies and contracts. The commissioner shall adopt all rules necessary to implement the remaining sections of this act by July 1, 1987, and the remaining sections of this act shall apply to policies and contracts issued on or after January 1, 1988.

Passed the House March 11, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 171

[House Bill No. 1486]

FAIRS COMMISSION—SUNSET PROVISIONS REPEALED—COUNTY LEASE AUTHORITY FOR AGRICULTURAL FAIRS

AN ACT Relating to the fairs commission; amending RCW 36.34.145; and repealing RCW 43.131.273 and 43.131.274.

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

NEW SECTION. Sec. 1. The following acts or parts of acts are each repealed:

- (1) Section 10, chapter 197, Laws of 1983 and RCW 43.131.273; and
- (2) Section 36, chapter 197, Laws of 1983 and RCW 43.131.274.

Sec. 2. Section 36.34.145, chapter 4, Laws of 1963 and RCW 36.34-.145 are each amended to read as follows:

The (~~(board of county commissioners)~~) legislative authority of any (~~(class A)~~) county owning property in or outside the limits of any city or town, or anywhere within the county, which is suitable for agricultural fair purposes may by negotiation lease such property for such purposes for a term not to exceed seventy-five years to any nonprofit organization that has demonstrated its qualification to conduct agricultural fairs. Such agricultural fair leases shall not be subject to any requirement of periodic rental adjustments, as provided in RCW 36.34.180, but shall provide for such fixed annual rental as shall appear reasonable, considering the benefit to be derived by the county in the promotion of the fair and in the improvement of the property. The lessee may utilize or rent out such property at times other than during the fair season for nonfair purposes in order to obtain income for fair purposes, and during the fair season may sublease portions of

the property for purposes and activities associated with such fair. No sublease shall be valid unless the same shall be approved in writing by the ~~((board of county commissioners))~~ county legislative authority: PROVIDED, That failure of such lessee, except by act of God, war or other emergency beyond its control, to conduct an annual agricultural fair or exhibition, shall cause said lease to be subject to cancellation by the ~~((board of county commissioners))~~ county legislative authority. A county legislative authority entering into an agreement with a nonprofit association to lease property for agricultural fair purposes shall, when requested to do so, file a copy of the lease agreement with the department of agriculture or the state fair commission in order to assure compliance with the provisions of RCW 15.76.165.

Passed the House March 8, 1986.

Passed the Senate February 28, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 172

[Second Substitute House Bill No. 1505]

EMPLOYMENT PARTNERSHIP PROGRAM—WAGE AND JOB ASSISTANCE FOR UNEMPLOYED AND UNDEREMPLOYED PERSONS

AN ACT Relating to voluntary grant diversion; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that the restructuring in the Washington economy has created rising public assistance caseloads and declining real wages for Washington workers. There is a profound need to develop partnership programs between the private and public sectors to create new jobs with adequate salaries and promotional opportunities for chronically unemployed and underemployed citizens of the state. A voluntary program which utilizes public wage subsidies and employer matching salaries has provided a beneficial financial incentive allowing public assistance recipients transition to permanent full-time employment.

NEW SECTION. Sec. 2. The employment partnership program is created to develop a series of model projects to provide permanent full-time employment for low-income and unemployed persons. The program shall be a cooperative effort between the employment security department and the department of social and health services. The goals of the program are as follows:

(1) To reduce inefficiencies in administration and provide model coordination of agencies with responsibilities for employment and human service delivery to unemployed persons;

(2) To create voluntary financial incentives to simultaneously reduce unemployment and welfare caseloads; and

(3) To provide other state and federal support services to the client population to enable economic independence.

NEW SECTION. Sec. 3. The commissioner of employment security and the secretary of the department of social and health services shall establish pilot projects that enable grants to be used as a wage subsidy. The department of social and health services is designated as the lead agency for the purpose of complying with applicable federal statutes and regulations. The department shall seek any waivers from the federal government necessary to operate the employment partnership program. The projects shall be available on an individual case-by-case basis or subject to the limitations outlined in section 5 of this act for the start-up or reopening of a plant under worker ownership. The projects shall be subject to the following criteria:

(1) It shall be a voluntary program and no person may have any sanction applied for failure to participate.

(2) Employment positions established by this act shall not be created as the result of, nor result in, any of the following:

(a) Displacement of current employees, including overtime currently worked by these employees;

(b) The filling of positions that would otherwise be promotional opportunities for current employees;

(c) The filling of a position, before compliance with applicable personnel procedures or provisions of collective bargaining agreements;

(d) The filling of a position created by termination, layoff, or reduction in workforce;

(e) The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific work site, or the filling of a work assignment in any bargaining unit in which funded positions are vacant or in which regular employees are on layoff;

(f) A strike, lockout, or other bona fide labor dispute, or violation of any existing collective bargaining agreement between employees and employers;

(g) Decertification of any collective bargaining unit.

(3) Wages shall be paid at the usual and customary rate of comparable jobs;

(4) A recoupment process shall recover state supplemented wages from an employer when a job does not last six months following the subsidization period for reasons other than the employee voluntarily quitting or being fired for good cause as determined by the commissioner of employment security under rules prescribed by the commissioner pursuant to chapter 50.20 RCW;

(5) Job placements shall have promotional opportunities or reasonable opportunities for wage increases;

(6) Other necessary support services such as training, day care, medical insurance, and transportation shall be provided to the extent possible;

(7) Employers shall provide monetary matching funds of at least fifty percent of total wages;

(8) Wages paid to participants shall be a minimum of five dollars an hour; and

(9) The projects shall target the hardest-to-employ populations to the extent that necessary support services are available.

NEW SECTION. Sec. 4. An employer, before becoming eligible to fill a position under the employment partnership program, shall certify to the department of employment security that the employment, offer of employment, or work activity complies with the following conditions:

(1) The conditions of work are reasonable and not in violation of applicable federal, state, or local safety and health standards;

(2) The assignments are not in any way related to political, electoral, or partisan activities;

(3) The employer shall provide industrial insurance coverage as required by Title 51 RCW;

(4) The employer shall provide unemployment compensation coverage as required by Title 50 RCW;

(5) The employment partnership program participants hired following the completion of the program shall be provided benefits equal to those provided to other employees including social security coverage, sick leave, the opportunity to join a collective bargaining unit, and medical benefits.

NEW SECTION. Sec. 5. Grants may be diverted for the start-up or retention of worker-owned businesses if:

(1) A feasibility study or business plan is completed on the proposed business; and

(2) The project is approved by the loan committee of the Washington state development loan fund as created by RCW 43.168.110.

NEW SECTION. Sec. 6. Participants shall be considered recipients of aid to families with dependent children and remain eligible for medicaid benefits even if the participant does not receive a residual grant. Work supplementation participants shall be eligible for (1) the thirty-dollar plus one-third of earned income exclusion from income, (2) the work related expense disregard, and (3) the child care expense disregard deemed available to recipient of aid in computing his or her grant under this chapter, unless prohibited by federal law.

NEW SECTION. Sec. 7. An applicant or recipient of aid under this chapter who participates in the employment partnership program shall be

guaranteed that the value of the benefits available to him or her before entry into the program shall not be diminished. In addition, a participant employed under this chapter shall be treated in the same manner as are regular employees, and the participant's salary shall be the amount that he or she would have received if employed in that position and not participating under this chapter.

NEW SECTION. Sec. 8. Applicants for and recipients of aid under this chapter are "individuals in special need" of training as described in section 2 of the federal job training partnership act, 29 U.S.C. Sec. 1501 et seq., "individuals who require special assistance" as provided in section 123 of that act, and "most in need" of employment and training opportunities as described in section 141 of that act.

NEW SECTION. Sec. 9. The department of social and health services shall seek any federal funds available for implementation of this chapter, including, but not limited to, funds available under Title IV of the federal social security act (42 U.S.C. Sec. 601 et seq.) for the work incentive demonstration program, and the employment search program.

NEW SECTION. Sec. 10. The employment security department, in conjunction with the department of social and health services shall report to the appropriate committees of the senate and the house of representatives on the employment partnership program no later than January 15, 1987, and on an annual basis thereafter. The report shall include:

- (1) The number of employer and client participants in the program;
- (2) The number and type of jobs made available under this program, including information relating to wages, benefits, and potential for promotion;
- (3) The costs of necessary support services;
- (4) The program's effectiveness in serving those aid recipients considered hard to place in employment; and
- (5) Any other appropriate information.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. 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, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict and

with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 173

[Engrossed Substitute House Bill No. 1545]

HYDRAULIC PERMITS

AN ACT Relating to hydraulic permits; amending RCW 75.20.100, 43.21B.005, and 75.20.050; adding new sections to chapter 75.20 RCW; and prescribing penalties.

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

Sec. 1. Section 75.20.100, chapter 12, Laws of 1955 as last amended by section 75, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.20.100 are each amended to read as follows:

In the event that any person or government agency desires to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any ~~((river or stream or that will utilize any))~~ of the salt or fresh waters of the state ~~((or materials from the stream beds))~~, such person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure the written approval of the department ~~((having jurisdiction of the site))~~ of fisheries or the department of game as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld. The ~~((appropriate))~~ department of fisheries or the department of game shall grant or deny approval within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section. The applicant may document receipt of application by filing in person or by registered mail. A complete application for approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water, and complete plans and specifications for the proper protection of fish life. The forty-five day requirement shall be suspended if (1) after ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project; (2) the site is physically inaccessible for inspection; or (3) the applicant requests delay. Immediately upon determination that the forty-five day period is suspended, the ~~((appropriate))~~ department of

fisheries or the department of game shall notify the applicant in writing of the reasons for the delay. Approval is valid for a period of up to five years from date of issuance. The permittee must demonstrate substantial progress on construction of that portion of the project relating to the ((hydraulic permit)) approval within two years of the date of issuance. If ((approval is denied, the appropriate)) either the department of fisheries or the department of game denies approval, that department shall provide the applicant, in writing, a statement of the specific reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Chapter 34.04 RCW applies to any denial of project approval, conditional approval, or requirements for project modification upon which approval may be contingent. If any person or government agency commences construction on any hydraulic works or projects subject to this section without first having obtained written approval of the ((appropriate)) department of fisheries or the department of game as to the adequacy of the means proposed for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, the person or director of the agency is guilty of a gross misdemeanor. If any such person or government agency is convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.

For the purposes of this section and section 2 of this 1986 act, "bed" shall mean ((that portion of a river or stream and the shorelands within or ordinary high water lines)) the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

The phrase "to construct any form of hydraulic project or perform other work" shall not include the act of driving across an established ford. Driving across streams or on wetted stream beds at areas other than established fords requires approval. Work within the ordinary high water line of state waters to construct or repair a ford or crossing requires approval.

For each application, the department((s)) of fisheries and the department of game shall mutually agree on ((which one)) whether the department of fisheries or the department of game shall administer the provisions of this section, in order to avoid duplication of effort. The department designated to act shall cooperate with the other department in order to protect all species of fish life found at the project site. If ((a)) the department of fisheries or the department of game receives an application concerning a site not in its jurisdiction, it shall transmit the application to the ((appropriate)) other department within three days and notify the applicant.

In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department of fisheries or department of game, through their authorized representatives, shall issue immediately upon request oral (~~((permits to a riparian owner or lessee))~~) approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written (~~((permit))~~) approval prior to commencing work. Conditions of an oral (~~((permit))~~) approval shall be reduced to writing within thirty days and complied with as provided for in this section. Oral approval shall be granted immediately upon request, for a stream crossing during an emergency situation.

This section shall not apply to the construction of any form of hydraulic project or other work which diverts water for agricultural irrigation or stock watering purposes authorized under or recognized as being valid by the state's water codes. These irrigation or stock watering diversion projects shall be governed by section 2 of this 1986 act.

NEW SECTION. Sec. 2. In the event that any person or government agency desires to construct any form of hydraulic project or other work that diverts water for agricultural irrigation or stock watering purposes and when the construction or other work will use, divert, obstruct, or change the natural flow or bed of any river or stream or will utilize any waters of the state or materials from the stream beds, the person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure a written approval from the department of fisheries or the department of game as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld. The department of fisheries or the department of game shall grant or deny the approval within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section. The applicant may document receipt of application by filing in person or by registered mail. A complete application for an approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within ordinary high water line, and complete plans and specifications for the proper protection of fish life. The forty-five day requirement shall be suspended if (1) after ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project; (2) the site is physically inaccessible for inspection; or (3) the applicant requests delay.

Immediately upon determination that the forty-five day period is suspended, the department of fisheries or the department of game shall notify the applicant in writing of the reasons for the delay.

An approval shall remain in effect without need for periodic renewal for projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the approval.

The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance. If either the department of fisheries or the department of game denies approval, that department shall provide the applicant, in writing, a statement of the specific reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Issuance, denial, conditioning, or modification shall be appealable to the hydraulic appeals board established in RCW 43.21B.005 within thirty days of the notice of decision. The burden shall be upon the department of fisheries or the department of game to show that the denial or conditioning of an approval is solely aimed at the protection of fish life.

The department granting approval may, after consultation with the permittee, modify an approval due to changed conditions. The modifications shall become effective unless appealed to the hydraulic appeals board within thirty days from the notice of the proposed modification. The burden is on the department issuing the approval to show that changed conditions warrant the modification in order to protect fish life.

A permittee may request modification of an approval due to changed conditions. The request shall be processed within forty-five calendar days of receipt of the written request. A decision by the department that issued the approval may be appealed to the hydraulic appeals board within thirty days of the notice of the decision. The burden is on the permittee to show that changed conditions warrant the requested modification and that such modification will not impair fish life.

If any person or government agency commences construction on any hydraulic works or projects subject to this section without first having obtained written approval of the department of fisheries or the department of game as to the adequacy of the means proposed for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, the person or director of the agency is guilty of a gross misdemeanor. If any such person or government agency is convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.

For each application, the department of fisheries and the department of game shall mutually agree on whether the department of fisheries or the

department of game shall administer the provisions of this section, in order to avoid duplication of effort. The department designated to act shall cooperate with the other department in order to protect all species of fish life found at the project site. If the department of fisheries or the department of game receives an application concerning a site not in its jurisdiction, it shall transmit the application to the other department within three days and notify the applicant.

In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department of fisheries or department of game, through their authorized representatives, shall issue immediately upon request oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written approval prior to commencing work. Conditions of an oral approval shall be reduced to writing within thirty days and complied with as provided for in this section.

Sec. 3. Section 2, chapter 47, Laws of 1979 ex. sess. and RCW 43.21B.005 are each amended to read as follows:

There is created an environmental hearings office of the state of Washington. The environmental hearings office shall consist of the pollution control hearings board created in RCW 43.21B.010, the forest practices appeals board created in RCW 76.09.210, ~~((and))~~ the shorelines hearings board created in RCW 90.58.170, and the hydraulic appeals board created in section 4 of this 1986 act. The chairman of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board, the forest practices appeals board, ~~((and))~~ the shorelines hearings board, and the hydraulic appeals board shall be as provided by law.

The chief executive officer of the environmental hearings office may appoint, discharge, and fix the compensation of such staff as may be necessary or may contract for required services. Employees of the environmental hearings office shall serve each board at the direction of the chief executive officer of the environmental hearings office.

NEW SECTION. Sec. 4. (1) There is hereby created within the environmental hearings office under RCW 43.21B.005 the hydraulic appeals board of the state of Washington.

(2) The hydraulic appeals board shall consist of three members: The director of the department of ecology or the director's designee, the director of the department of agriculture or the director's designee, and the director or the director's designee of the department whose action is appealed under subsection (6) of this section. A decision must be agreed to by at least two members of the board to be final.

(3) The board may adopt rules necessary for the conduct of its powers and duties or for transacting other official business.

(4) The board shall make findings of fact and prepare a written decision in each case decided by it, and that finding and decision shall be effective upon being signed by two or more board members and upon being filed at the hydraulic appeals board's principal office, and shall be open to public inspection at all reasonable times.

(5) The board has exclusive jurisdiction to hear appeals arising from the approval, denial, conditioning, or modification of a hydraulic approval issued by either the department of fisheries or the department of game under the authority granted in section 2 of this act for the diversion of water for agricultural irrigation or stock watering purposes.

(6) (a) Any person aggrieved by the approval, denial, conditioning, or modification of a hydraulic approval pursuant to section 2 of this act may seek review from the board by filing a request for the same within thirty days of notice of the approval, denial, conditioning, or modification of such approval.

(b) The review proceedings authorized in (a) of this subsection are subject to the provisions of chapter 34.04 RCW pertaining to procedures in contested cases.

NEW SECTION. Sec. 5. (1) In all appeals over which the hydraulic appeals board has jurisdiction, a party taking an appeal may elect either a formal or informal hearing. Such election shall be made according to the rules of practice and procedure to be adopted by the hydraulic appeals board. In the event that appeals are taken from the same decision, order, or determination, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted.

(2) In all appeals, the hydraulic appeals board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions but such powers shall be exercised in conformity with chapter 34.04 RCW.

(3) In all appeals involving a formal hearing, the hydraulic appeals board, and each member thereof, shall be subject to all duties imposed upon and shall have all powers granted to, an agency by those provisions of chapter 34.04 RCW relating to contested cases.

(4) All proceedings, including both formal and informal hearings, before the hydraulic appeals board or any of its members shall be conducted in accordance with such rules of practice and procedure as the board may prescribe. Such rules shall be published and distributed.

(5) Judicial review of a decision of the hydraulic appeals board shall be de novo except when the decision has been rendered pursuant to the formal hearing, in which event judicial review may be obtained only pursuant to RCW 34.04.130 and 34.04.140.

NEW SECTION. Sec. 6. The department of fisheries and the department of game may each levy civil penalties of up to one hundred dollars per day for violation of any provisions of RCW 75.20.100 or section 2 of this act. The penalty provided shall be imposed by notice in writing, either by certified mail or personal service to the person incurring the penalty, from the director of the appropriate department or that director's designee describing the violation. Any person incurring any penalty under this chapter may appeal the same under chapter 34.04 RCW to the director of the department levying the penalty. Appeals shall be filed within thirty days of receipt of notice imposing any penalty. The penalty imposed shall become due and payable thirty days after receipt of a notice imposing the penalty unless an appeal is filed. Whenever an appeal of any penalty incurred under this chapter is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part.

If the amount of any penalty is not paid within thirty days after it becomes due and payable the attorney general, upon the request of the director of the department of fisheries or the department of game shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action. All penalties recovered under this section shall be paid into the state's general fund.

Sec. 7. Section 75.20.050, chapter 12, Laws of 1955 as amended by section 71, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.20.050 are each amended to read as follows:

It is the policy of this state that a flow of water sufficient to support game fish and food fish populations be maintained at all times in the streams of this state.

The director of ecology shall give the director of fisheries and the director of game notice of each application for a permit to divert or store water (~~(, or other hydraulic permit)~~). The director of fisheries and director of game have thirty days after receiving the notice to state their objections to the application. The permit shall not be issued until the thirty-day period has elapsed.

The director of ecology may refuse to issue a permit if, in the opinion of the director of fisheries or director of game, issuing the permit might result in lowering the flow of water in a stream below the flow necessary to adequately support food fish and game fish populations in the stream.

The provisions of this section shall in no way affect existing water rights.

NEW SECTION. Sec. 8. Sections 2 and 4 through 6 of this act are each added to chapter 75.20 RCW.

Passed the House March 8, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 174

[Engrossed House Bill No. 1614]

MOTOR VEHICLE REGISTRATION—REVIEW OF MERITS AND COSTS OF PROGRAM REQUIRING DRIVER'S LICENSE AS A PREREQUISITE TO REGISTRATION

AN ACT Relating to prerequisites for the issuance of vehicle licenses; amending section 2, chapter 424, Laws of 1985 (uncodified); creating new sections; and providing an effective date.

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

Sec. 1. Section 2, chapter 424, Laws of 1985 (uncodified) is amended to read as follows:

This act shall take effect on (~~July 1, 1986~~) January 1, 1990.

NEW SECTION. Sec. 2. The legislature recognizes that a program to require a person to possess a valid driver's license as a prerequisite for the registration of motor vehicles can help improve highway safety in the state. The legislature also recognizes that such a program should be carefully analyzed and planned before implementation to ensure that it is as cost effective as possible.

NEW SECTION. Sec. 3. The legislative transportation committee shall review the merits and costs of implementing the program established by chapter 424, Laws of 1985, including data on deaths and injuries caused by unlicensed drivers, and report back to the legislature prior to January 1, 1989.

Passed the House March 12, 1986.

Passed the Senate March 12, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 175

[House Bill No. 1631]

NURSING HOME COST REIMBURSEMENT

AN ACT Relating to nursing home cost reimbursement; amending RCW 74.46.360 and 74.46.410; and creating a new section.

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

Sec. 1. Section 36, chapter 177, Laws of 1980 and RCW 74.46.360 are each 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 the 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) ~~((Subparagraph (4)))~~ 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.

(c) 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.

(d) 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.

NEW SECTION. Sec. 2. The legislative budget committee shall conduct a study of the changes in the state reimbursement system for nursing homes, RCW 74.46.840, resulting from requirements of the Federal Deficit Reduction Act of 1984, (DEFRA) (P.L. 98-369). The study shall include analysis of the effects of these changes on: (1) Nursing home sales since July 18, 1984, the effective date of DEFRA; (2) capital formation for nursing home purchases and sales; and (3) leased nursing homes. The study shall also review adjustments other states may be making as a result of DEFRA. The legislative budget committee shall report the results of this study, including recommendations for any needed legislation, to the ways and means committees of the senate and house of representatives by December 1, 1986.

Sec. 3. Section 41, chapter 177, Laws of 1980 as amended by section 17, chapter 67, Laws of 1983 1st ex. sess. 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 (~~and association dues or that portion of association dues attributable to membership in national 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.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 176

[Engrossed House Bill No. 1652]

PUBLIC RETIREMENT DISABILITY BENEFITS

AN ACT Relating to public retirement disability benefits; amending RCW 46.20.041, 41.40.235, 41.26.120, 41.26.125, and 41.26.160; adding new sections to chapter 41.40 RCW; and declaring an emergency.

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

Sec. 1. Section 5, chapter 121, Laws of 1965 ex. scss. as last amended by section 54, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.041 are each amended to read as follows:

(1) The department shall permit any person suffering from any physical or mental disability or disease which may affect that person's ability to drive a motor vehicle, to demonstrate personally that notwithstanding such disability or disease he or she is a proper person to drive a motor vehicle. The department may in addition require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper

authority designated by the department. The certificate shall be for the confidential use of the director and the chief of the Washington state patrol and for such other cognizant public officials as may be designated by law. It shall be exempt from public inspection and copying notwithstanding the provisions of chapter 42.17 RCW. The certificate may not be offered as evidence in any court except when appeal is taken from the order of the director suspending, revoking, canceling, or refusing a vehicle driver's license. However, the certificate may be made available to the director of the department of retirement systems for use in determining eligibility for or continuance of disability benefits and it may be offered and admitted as evidence in any administrative proceeding or court action concerning such disability benefits.

(2) The department may issue a driver's license to such a person imposing restrictions suitable to the licensee's driving ability with respect to the special mechanical control devices required on a motor vehicle or the type of motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(3) The department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(4) The department may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a driver improvement interview and a hearing as upon a suspension or revocation under this chapter.

(5) It is a traffic infraction for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him or her.

NEW SECTION. Sec. 2. A new section is added to chapter 41.40 RCW to read as follows:

Those members subject to this chapter who became disabled in the line of duty on or after March 27, 1984, and who received or are receiving benefits under Title 51 RCW shall receive or continue to receive service credit subject to the following:

(1) No member may receive more than one month's service credit in a calendar month.

(2) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(3) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(4) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(5) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred. If contribution payments are made retroactively, interest shall be charged at the

rate set by the director on both employee and employer contributions. No service credit shall be granted until the employee contribution has been paid.

(6) The service and compensation credit shall not be granted for a period to exceed twelve consecutive months.

(7) Nothing in this section shall abridge service credit rights granted in RCW 41.40.220(2) and 41.40.320

(8) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

NEW SECTION. Sec. 3. A new section is added to chapter 41.40 RCW to read as follows:

A member who became temporarily disabled before March 27, 1984, under the circumstances specified in RCW 72.09.240 (1) and (2) may receive service credit for such period of disability subject to all the limitations and conditions contained in section 2 of this act. In order to qualify for the service credit provided by this section the member must make application to the department no later than December 31, 1986, and must agree to allow the employer to withhold from the member's wages the employee contributions, with interest, as required under section 2 of this act.

Sec. 4. Section 10, chapter 151, Laws of 1972 ex. sess. and RCW 41.40.235 are each amended to read as follows:

(1) Upon retirement, a member shall receive a nonduty disability retirement allowance equal to two percent of average final compensation for each year of service: PROVIDED, That such allowance shall be reduced by two percent of itself for each year or fraction thereof that his age is less than fifty-five years: PROVIDED FURTHER, That in no case may the allowance provided by this section exceed sixty percent of average final compensation.

(2) If the recipient of a retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to such person or persons having an insurable interest in his or her life as the recipient has nominated by written designation duly executed and filed with the director or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

Sec. 5. Section 12, chapter 209, Laws of 1969 ex. sess. as last amended by section 2, chapter 102, Laws of 1985 and RCW 41.26.120 are each amended to read as follows:

Any member, regardless of his age or years of service may be retired by the disability board, subject to approval by the director as hereinafter provided, for any disability incurred in the line of duty which has been continuous since his discontinuance of service and which renders him unable to continue his service. No disability retirement allowance shall be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of his application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to his full monthly salary and shall continue to receive all other benefits provided to active employees from his employer for such period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, his disability leave allowance shall be canceled and he shall be restored to duty in the same rank or position, if any, held by the beneficiary at the time he became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he is or is believed to be physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of said member, or a person acting in his behalf, stating that said member is disabled, either physically or mentally: PROVIDED, That no such application shall be considered unless said member or someone in his behalf, in case of the incapacity of a member, shall have filed the application within a period of one year from and after the discontinuance of service of said member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability has been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter as now or hereafter amended, granting the member a disability retirement allowance; otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: PROVIDED, That in any order granting a duty disability retirement allowance, the disability board shall make a finding that the disability was incurred in line of duty.

(3) Every order of a disability board granting a duty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board

if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish, to the disability board, that he is physically or mentally disabled from the further performance of duty, that such disability was incurred in the line of duty, and that such disability will be in existence for a period of at least six months may waive the six-month period of disability leave and be immediately granted a duty disability retirement allowance, subject to the approval of the director as provided in subsection (3) above.

Sec. 6. Section 3, chapter 102, Laws of 1985 and RCW 41.26.125 are each amended to read as follows:

Any member, regardless of age or years of service, may be retired by the disability board, subject to approval by the director as provided in this section, for any disability not incurred in the line of duty which has been continuous since discontinuance of service and which renders the member unable to continue service. No disability retirement allowance may be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of the member's application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the member's full monthly salary and shall continue to receive all other benefits provided to active employees from the member's employer for the period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the member at the time the member became disabled. Applications for disability retirement shall be processed in accordance with the following procedures:

(1) Any member who believes he or she is, or is believed to be, physically or mentally disabled shall be examined by such medical authority as the disability board shall employ, upon application of the member, or a person acting in the member's behalf, stating that the member is disabled, either physically or mentally: PROVIDED, That no such application shall be considered unless the member or someone acting in the member's behalf,

in case of the incapacity of a member, has filed the application within a period of one year from and after the discontinuance of service of the member.

(2) If the examination shows, to the satisfaction of the disability board, that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability had been continuous from the discontinuance of service, the disability board shall enter its written decision and order, accompanied by appropriate findings of fact and by conclusions evidencing compliance with this chapter, granting the member a disability retirement allowance. Otherwise, if the member is not found by the disability board to be so disabled, the application shall be denied pursuant to a similar written decision and order, subject to appeal to the director in accordance with RCW 41.26.200: PROVIDED, That in any order granting a nonduty disability retirement allowance, the disability board shall make a finding that the disability was not incurred in the line of duty.

(3) Every order of a disability board granting a nonduty disability retirement allowance shall forthwith be reviewed by the director except the finding that the disability was not incurred in the line of duty. The director may affirm the decision of the disability board or remand the case for further proceedings, or the director may reverse the decision of the disability board if the director finds the disability board's findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the disability board; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in this chapter; or
- (f) Arbitrary or capricious.

(4) Every member who can establish to the disability board that the member is physically or mentally disabled from the further performance of duty, that such disability was not incurred in the line of duty, and that such disability will be in existence for a period of at least six months, may waive the six-month period of disability leave and be immediately granted a nonduty disability retirement allowance, subject to the approval of the director as provided in subsection (3) of this section.

Sec. 7 Section 17, chapter 209, Laws of 1969 ex. sess. as last amended by section 17 chapter 294, Laws of 1977 ex. sess. and RCW 41.26.160 are each amended to read as follows:

(1) In the event of the death of any member who is in active service, or who has vested under the provisions of RCW 41.26.090 with twenty or more years of service, or who is on disability leave or retired, whether for disability or service, his surviving spouse shall become entitled to receive a

monthly allowance equal to fifty percent of his final average salary at the date of death if active, or the amount of retirement allowance the vested member would have received at age fifty, or the amount of the retirement allowance such retired member was receiving at the time of his death if retired for service or disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), as now or hereafter amended, subject to a maximum combined allowance of sixty percent of final average salary: PROVIDED, That if the child or children is or are in the care of a legal guardian, payment of the increase attributable to each child will be made to the child's legal guardian or, in the absence of a legal guardian and if the member has created a trust for the benefit of the child or children, payment of the increase attributable to each child will be made to the trust.

(2) If at the time of the death of a vested member with twenty or more years service as provided above or a member retired for service or disability, the surviving spouse has not been lawfully married to such member for one year prior to his retirement or separation from service if a vested member, the surviving spouse shall not be eligible to receive the benefits under this section: PROVIDED, That if a member dies as a result of a disability incurred in the line of duty, then if he was married at the time he was disabled, his surviving spouse shall be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), as now or hereafter amended, there shall be paid to the legal heirs of said member the excess, if any, of accumulated contributions of said member at the time of his death over all payments made to his survivors on his behalf under this chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the estate of said member.

(5) If a surviving spouse receiving benefits under the provisions of this section thereafter dies and there are children as defined in RCW 41.26.030(7), as now or hereafter amended, payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) above.

(6) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 8, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 177

[Engrossed House Bill No. 1900]

CATTLE—RUNNING IN COMMON ON RANGE AREAS

AN ACT Relating to cattle running; and amending RCW 16.20.020 and 16.20.030.

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

Sec. 1. Section 1, chapter 111, Laws of 1917 as amended by section 18, chapter 415, Laws of 1985 and RCW 16.20.020 are each amended to read as follows:

It shall be unlawful for any person, firm, association or corporation to turn upon or allow to run at large on any range area in this state any bull other than a registered bull of a recognized beef breed. All persons running cattle in common on any range area may, however, agree to run any purebred or crossbred bull of any breed, registered or unregistered, as they may deem appropriate for their area.

Sec. 2. Section 2, chapter 111, Laws of 1917 and RCW 16.20.030 are each amended to read as follows:

~~((That))~~ Before any person, firm, association or corporation ~~((shall))~~ turns upon ~~((the open))~~ a range area in this state any female ~~((breeding))~~ cattle of breeding age of more than fifteen in number, ~~((two years old or over))~~ they shall procure and turn with said female breeding cattle one registered ~~((purebred))~~ bull of recognized beef breed for every forty females or fraction thereof of twenty-five or over ~~((PROVIDED, HOWEVER, That RCW 16.20.020 through 16.20.040 shall not apply to counties lying west of the summit of the Cascade mountains))~~. All persons running cattle in common on any range area may, however, agree to any other proportion of bulls to female cattle of breeding age as they may deem appropriate for their area.

Passed the House February 17, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 178

[Substitute House Bill No. 2014]

AGRICULTURAL PRODUCTS COMMISSION MERCHANTS

AN ACT Relating to agricultural products commission merchants; amending RCW 20.01.010, 20.01.125, 20.01.130, 20.01.210, 20.01.220, 20.01.230, 20.01.240, 20.01.460, 20.01.610, and 62A.9-204; adding new sections to chapter 20.01 RCW; adding a new section to chapter 60.13 RCW; repealing RCW 20.01.035 and 20.01.290; 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 20.01 RCW to read as follows:

The director shall have the authority to issue a notice of civil infraction if an infraction is committed in his or her presence or, if after investigation, the director has reasonable cause to believe an infraction has been committed. It shall be a misdemeanor for any person to refuse to properly identify himself or herself for the purpose of issuance of a notice of infraction or to refuse to sign the written promise to appear or respond to a notice of infraction. Any person wilfully violating a written and signed promise to respond to a notice of infraction shall be guilty of a misdemeanor regardless of the disposition of the notice of infraction.

NEW SECTION. Sec. 2. A new section is added to chapter 20.01 RCW to read as follows:

(1) Any person who receives a notice of infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) Any employee or agent of a licensee under this chapter is fully authorized to accept a notice of infraction on behalf of the licensee. The director shall also furnish a copy of the notice of infraction to the licensee by certified mail within five days of issuance.

(3) If the person determined to have committed the infraction does not contest the determination, that person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response, which does not contest the determination, is received, an appropriate order shall be entered into the courts record and a record of the response shall be furnished to the director.

(4) If a person determined to have committed the infraction wishes to contest the determination, that person shall respond by completing the portion of the notice of the infraction requesting a hearing and submitted either by mail or in person to the court specified in the notice. The court shall notify the person in writing of the time, place, and the date of the hearing

which shall not be sooner than fifteen days from the date of the notice, except by agreement.

(5) If the person determined to have committed the infraction does not contest the determination, but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it either by mail or in person to the court specified in the notice. The court shall notify the person in writing of the time, place and date of the hearing.

(6) If a person issued a notice of infraction fails to respond to the notice of infraction or fails to appear at the hearing requested pursuant to this section, the court shall enter an appropriate order in assessing the monetary penalty prescribed in the schedule of penalties submitted to the court by the director and shall notify the director of the failure to respond to the notice of infraction or to appear at a requested hearing.

NEW SECTION. Sec. 3. A new section is added to chapter 20.01 RCW to read as follows:

A hearing held for the purpose of contesting the determination that an infraction has been committed shall be held without jury. The court may consider the notice of infraction and any other written report submitted by the director. The person named in the notice may subpoena witnesses and has the right to present evidence and examine witnesses present in court. The burden of proof is upon the state to establish the commission of the infraction by preponderance of evidence.

After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it is not established that the infraction was committed, an order dismissing the notice shall be entered in the court's record. When it is established that the infraction was committed, an appropriate order shall be entered in the court's record, a copy of which shall be furnished to the director. Appeal from the court's determination or order shall be to the superior court and must be appealed within ten days. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the rules of appellate procedure.

NEW SECTION. Sec. 4. A new section is added to chapter 20.01 RCW to read as follows:

A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person named in the notice may not subpoena witnesses. The determination that the infraction has been committed may not be contested at a hearing held for the purpose of explaining circumstances. After the court has heard the explanation of the circumstances surrounding the commission of the infraction, an appropriate order shall be entered in the court's record. A copy of the order shall be furnished to the director. There may be no appeal from the court's determination or order.

NEW SECTION. Sec. 5. A new section is added to chapter 20.01 RCW to read as follows:

Any person found to have committed a civil infraction under this chapter shall be assessed a monetary penalty. No monetary penalty so assessed may exceed one thousand dollars. The director shall adopt a schedule of monetary penalties for each violation of this chapter classified as a civil infraction and shall submit the schedule to the proper courts. Whenever a monetary penalty is imposed by the court, the penalty is immediately due and payable. The court may, at its discretion, grant an extension of time, not to exceed thirty days, in which the penalty must be paid. Failure to pay any monetary penalties imposed under this chapter shall be punishable as a misdemeanor.

Sec. 6. Section 1, chapter 139, Laws of 1959 as last amended by section 8, chapter 412, Laws of 1985 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 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.

(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. ~~((Any retailer may occasionally wholesale any agricultural product which he has in surplus; however, such wholesaling shall not be in excess of two percent of the retailer's gross business.))~~

(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) "Conditioner" means any person, firm, company, or other organization that receives turf, forage, or vegetable seeds from a consignor for drying or cleaning.

(19) "Seed bailment contract" means any contract meeting the requirements of chapter 15.48 RCW.

(20) "Proprietary seed" means any seed that is protected under the Federal Plant Variety Protection Act.

(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) "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. 7. Section 8, chapter 232, Laws of 1963 as amended by section 6, chapter 182, Laws of 1971 ex. sess. and RCW 20.01.125 are each amended to read as follows:

Every dealer and commission merchant dealing in hay or straw shall obtain a certified vehicle tare weight and a certified vehicle gross weight for each load hauled and shall furnish the consignor with a copy of such certified weight ticket within seventy-two hours after taking delivery. It shall be a violation of this chapter for any licensee to transport hay or straw which has been purchased by weight without having obtained a certified weight ticket from the first licensed public weighmaster which would be encountered on the ordinary route to the destination where the hay or straw is to be unloaded.

Sec. 8. Section 13, chapter 139, Laws of 1959 as last amended by section 1, chapter 142, Laws of 1973 and RCW 20.01.130 are each amended to read as follows:

All fees and other moneys received by the department under the provisions of this chapter shall be paid to the director and shall be used solely for the purpose of carrying out the provisions of this chapter and rules ((and regulations)) adopted hereunder. All civil fines received by the courts as the result of notices of infractions issued by the director shall be paid to the director, less any mandatory court costs and assessments.

Sec. 9. Section 5, chapter 232, Laws of 1963 as last amended by section 4, chapter 305, Laws of 1983 and RCW 20.01.210 are each amended to read as follows:

(1) Before the license is issued to any commission merchant or dealer, or both, the applicant shall execute and deliver to the director a surety bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Said bond shall be to the state for the benefit of qualified consignors of agricultural products in this state. All such sureties on a bond, as provided herein, shall be released and discharged from all liability to the state accruing on such bond by giving notice to the principal and the director by certified mail. Upon receipt of such notice the director shall notify the surety and the principal of the effective date of termination which shall be thirty days from the receipt of such notice by the director, but this shall not relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration period provided for above.

(2) The bond for a commission merchant or dealer in hay, straw or turf, forage or vegetable seed shall be not less than fifteen thousand dollars ((for a commission merchant, or a dealer in turf, forage, or vegetable seed, hay, or straw)). The actual amount of such bond shall be determined by dividing the annual dollar volume of the licensee's net proceeds or net payments due consignors by twelve and increasing that amount to the next multiple of five thousand dollars, except that the bond amount for dollar volume arising from proprietary seed bailment contracts shall be computed as provided in subsection (4) of this section. Such bond for a new commission merchant or dealer in hay, straw or turf, forage or vegetable seed shall be subject to increase at any time during the licensee's first year of operation based on the average of business volume for any three months. Except as provided in subsection (3) of this section, the bond shall be not less than three thousand dollars for any other dealer.

(3) The bond for a commission merchant or dealer in livestock shall be not less than ((seven thousand five hundred)) ten thousand dollars. ((★)) The actual amount of such bond shall be determined in accordance with the formula set forth in the packers and stockyard act of 1921 (7 U.S.C. 181), except that a commission merchant or dealer in livestock shall increase his bond by five thousand dollars for each agent he has endorsed under RCW 20.01.090.

(4) The bond for a commission merchant ((or dealer, other than a commission merchant or a dealer in turf, forage, or vegetable seed or a dealer in hay or straw;)) handling agricultural products other than livestock, hay, straw or turf, forage or vegetable seed shall not be less than seven thousand five hundred dollars. The bond for a dealer handling agricultural products other than livestock, hay, straw or turf, forage or vegetable seed shall not be less than three thousand dollars. The actual amount of such bond shall be determined by dividing the annual dollar volume of ((that commission merchant's or dealer's)) the licensee's net proceeds or net payments due consignors by fifty-two and increasing that amount to the next

multiple of two thousand dollars. However, bonds above twenty-six thousand dollars shall be increased to the next multiple of five thousand dollars.

~~(5) ((The bond for a commission merchant or dealer in turf, forage, or vegetable seed or a dealer in hay or straw shall be determined by dividing the annual dollar volume of that commission merchant's or dealer's net proceeds or net payments due consignors by twelve and increasing that amount to the next multiple of five thousand dollars, except that the determination of bond amounts for any portion of dollar volume directly related to proprietary seed bailment contracts shall be computed as provided in subsection (4) of this section. The bond for a new commission merchant or a dealer in turf, forage, or vegetable seed or dealer in hay or straw is subject to increase at any time during the licensee's first year of operation and shall be based on the monthly average of the volume of purchases of any three months of operation.~~

~~(6)))~~ When the annual dollar volume of any commission merchant or dealer reaches two million six hundred thousand dollars, the amount of the bond required above this level shall be on a basis of ten percent of the amount arrived at by applying the appropriate formula.

Sec. 10. Section 22, chapter 139, Laws of 1959 as amended by section 4, chapter 194, Laws of 1982 and RCW 20.01.220 are each amended to read as follows:

Any consignor of an agricultural product claiming to be injured by the fraud of any commission merchant and/or dealer or their agents may bring action upon said bond against principal, surety, and agent in any court of competent jurisdiction to recover the damages caused by such fraud. Any consignor undertaking such an action shall name the director as a party.

Sec. 11. Section 23, chapter 139, Laws of 1959 and RCW 20.01.230 are each amended to read as follows:

The director or any consignor of an agricultural product may also bring action upon said bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by any failure to comply with the provisions of this chapter or the rules ~~((and regulations))~~ adopted hereunder. Any consignor undertaking such an action shall name the director as a party.

Sec. 12. Section 24, chapter 139, Laws of 1959 and RCW 20.01.240 are each amended to read as follows:

~~((In case of failure of a commission merchant and/or dealer to pay a consignor for an agricultural product received from said consignor, the director shall proceed forthwith))~~ (1) Except as provided in subsection (2) of this section, any consignor who believes he or she has a valid claim against the bond of a commission merchant or dealer shall file a claim with the director. Upon the filing of a claim under this subsection against any commission merchant or dealer handling any agricultural product, the director

may, after investigation, proceed to ascertain the names and addresses of all consignor creditors of such commission merchant and ~~((/or))~~ dealer, together with the amounts due and owing to them by such commission merchant and ~~((/or))~~ dealer, and shall request all such consignor creditors to file a verified statement of their respective claims with the director. Such request shall be addressed to each known consignor creditor at his last known address.

(2) Any consignor who believes he or she has a valid claim against the bond of a commission merchant or dealer in hay or straw, shall file a claim with the director within twenty days of the licensee's default. In the case of a claim against the bond of a commission merchant or unlimited dealer in hay or straw, default occurs when the licensee fails to make payment within thirty days of the date the licensee took possession of the hay or straw. In the case of a claim against a limited dealer in hay or straw, default occurs when the licensee fails to make payment upon taking possession of the hay or straw. Upon verifying the consignor's claim either through investigation or, if necessary, an administrative action, the director shall, within ten working days of the filing of the claim, make demand for payment of the claim by the licensee's surety without regard to any other potentially valid claim. Any subsequent claim will likewise result in a demand against the licensee's surety, subject to the availability of any remaining bond proceeds.

Sec. 13. Section 46, chapter 139, Laws of 1959 as amended by section 4, chapter 20, Laws of 1982 and RCW 20.01.460 are each amended to read as follows:

(1) ~~((Except as provided in subsection (2) of this section, a))~~ 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) ~~((Intentionally))~~ Fails to ~~((pay for agricultural products valued at more than two hundred fifty dollars within the time and in the manner required by this chapter, or attempts payment of an amount greater than two hundred fifty dollars by a check he or she knows not to be backed by sufficient funds to cover such check))~~ 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, 20.01.120, 20.01.125, 20.01.410 or 20.01.610 has committed a civil infraction.

Sec. 14. Section 8, chapter 305, Laws of 1983 and RCW 20.01.610 are each amended to read as follows:

The director or his appointed officers may stop a vehicle transporting hay or straw upon the public roads of this state if there is reasonable cause to believe the carrier, seller, or buyer may be in violation of this chapter. Any operator of a vehicle failing or refusing to stop when directed to do so ((is guilty of a misdemeanor)) has committed a civil infraction.

NEW SECTION. Sec. 15. A new section is added to chapter 60.13 RCW to read as follows:

A person who controls or possesses amounts payable to the preparer of dairy products or the preparer's assigns, if the preparer or preparer's assigns is not a producer-handler, which are properly encumbered by a preparer's lien upon an account receivable shall not be obligated to pay a producer amounts to which the producer's preparer lien has attached until that person receives written notice of such lien, nor shall that person be liable to the producer for any amounts paid out prior to receipt of said notice. The notice required herein shall contain the information described in RCW 60.13.040(2). If requested by the person responsible for payment of such amounts, the producer must seasonably furnish reasonable proof that the preparer lien continues to exist and unless such proof is so furnished, that person has no obligation to pay the producer. A preparer of dairy products shall provide the name of the purchaser or marketing agent of the products to the producer upon request.

Failure to furnish the written notice as provided in this section shall not affect the status of the lien established under this chapter in regard to the relationship with other creditors.

Sec. 16. Section 9-204, chapter 157, Laws of 1965 ex. sess. as last amended by section 13, chapter 41, Laws of 1981 and RCW 62A.9-204 are each amended to read as follows:

(1) Except as provided in subsection (2), a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.

(2) No security interest attaches under an after-acquired property clause to consumer goods other than accessions (RCW 62A.9-314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.

(3) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment (subsection (1) of RCW 62A.9-105).

(4) A security interest cannot attach to livestock or to meat or meat products made from such livestock, where: (a) The livestock was sold to the

commission merchant or dealer in livestock as defined in chapter 20.01 RCW or to a commercial feedlot by another party, (b) this other party has been paid by draft or check, and (c) the draft or check remains outstanding; PROVIDED, That a security interest may attach when the draft or check has been outstanding more than ten days.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 69, Laws of 1965 and RCW 20.01.035; and
- (2) Section 29, chapter 139, Laws of 1959, section 6, chapter 305, Laws of 1983 and RCW 20.01.290.

Passed the House March 9, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 179

[Substitute Senate Bill No. 3948]

TRANSPORTATION LIENS

AN ACT Relating to transportation liens; amending RCW 60.24.075; and adding a new section to chapter 60.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 60.04 RCW to read as follows:

The lot tract, parcel of land, or any other type of real property or real property improvements upon which the type of activities listed in RCW 60.24.020, 60.24.030, or 60.24.035 are to be performed, or so much property thereof as may be necessary to satisfy the lien and the judgment thereon, to be determined by the court on rendering judgment in a foreclosure of lien, shall also be subject to the lien to the extent of its interest of the persons who in their own behalf, or through any of their agents, caused any of the types of activities listed in RCW 60.24.020, 60.24.030, or 60.24.035.

Sec. 2. Section 7, chapter 132, Laws of 1893 and RCW 60.24.075 are each amended to read as follows:

Every person, within ((thirty)) sixty days after the close of the rendition of the services, or after the close of the work or labor mentioned in the preceding sections, claiming the benefit hereof, must file for record with the county auditor of the county in which such saw logs, spars, piles, and other timber were cut, or in which such lumber or shingles were manufactured, a claim containing a statement of his demand and the amount thereof, after deducting as nearly as possible all just credits and offsets, with the name of the person by whom he was employed, with a statement of the terms and conditions of his contract, if any, and in case there is no express contract,

the claim shall state what such service, work, or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien sufficient for identification with reasonable certainty, which claim must be verified by the oath of himself or some other person to the effect that the affiant believes the same to be true, which claim shall be substantially in the following form:

..... Claimant, vs.

Notice is hereby given that of county, state of Washington, claims a lien upon a of, being about in quantity, which were cut or manufactured in county, state of Washington, are marked thus, and are now lying in, for labor performed upon and assistance rendered in said; that the name of the owner or reputed owner is; that employed said to perform such labor and render such assistance upon the following terms and conditions, to wit:

The said agreed to pay the said for such labor and assistance; that said contract has been faithfully performed and fully complied with on the part of said, who performed labor upon and assisted in said for the period of; that said labor and assistance were so performed and rendered upon said between the day of and the day of; and the rendition of said service was closed on the day of, and ((thirty)) sixty days have not elapsed since that time; that the amount of claimant's demand for said service is; that no part thereof has been paid except, and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of, in which amount he claims a lien upon said, The said also claims a lien on all said now owned by said of said county to secure payment for the work and labor performed in obtaining or securing the said logs, spars, piles, or other timber, lumber, or shingles herein described.

State of Washington, county of ss.

..... being first duly sworn, on oath says that he is named in the foregoing claim, has heard the same read, knows the contents thereof, and believes the same to be true.

.....

Subscribed and sworn to before me this day of
.

Passed the Senate March 9, 1986.
Passed the House March 5, 1986.
Approved by the Governor April 1, 1986.
Filed in Office of Secretary of State April 1, 1986.

CHAPTER 180

[Senate Bill No. 3352]

EDUCATION INFORMATION—SUPERINTENDENT OF PUBLIC INSTRUCTION
TO COLLECT, SCREEN, ORGANIZE AND DISSEMINATE

AN ACT Relating to education; and adding a new section to chapter 28A.03 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.03 RCW to read as follows:

(1) Recent and expanding activity in educational research has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible. To facilitate access to information and materials on education, the superintendent of public instruction shall act as the state clearinghouse for educational information.

(2) In carrying out this function, the superintendent of public instruction's primary duty shall be to collect, screen, organize, and disseminate information pertaining to the state's educational system from preschool through grade twelve, including but not limited to in-state research and development efforts; descriptions of exemplary, model, and innovative programs; and related information that can be used in developing more effective programs.

(3) The superintendent of public instruction shall maintain a collection of such studies, articles, reports, research findings, monographs, bibliographies, directories, curriculum materials, speeches, conference proceedings, legal decisions that are concerned with some aspect of the state's education system, and other applicable materials. All materials and information shall be considered public documents under chapter 42.17 RCW and the superintendent of public instruction shall furnish copies of educational materials at nominal cost.

(4) The superintendent of public instruction shall coordinate the dissemination of information with the educational service districts and shall

publish and distribute, on a monthly basis, a newsletter describing current activities and developments in education in the state.

Passed the Senate January 20, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 181

[Substitute Senate Bill No. 3453]

LIENS—NONCONSENSUAL COMMON LAW LIENS

AN ACT Relating to liens; amending RCW 60.28.010; and adding a new chapter to Title 60 RCW.

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

NEW SECTION. Sec. 1. (1) It is the intent of this chapter to limit the circumstances in which nonconsensual common law liens shall be recognized in this state.

(2) For the purposes of this chapter:

(a) "Lien" means an encumbrance on property as security for the payment of a debt; and

(b) "Nonconsensual common law lien" is a lien that:

(i) Is recognized now or hereafter under the common law of this state;

(ii) Does not depend upon the consent of the owner of the property affected for its existence; and

(iii) Is not a court-imposed equitable or constructive lien.

(3) Nothing in this chapter is intended to affect:

(a) Any lien provided for by statute;

(b) Any consensual liens now or hereafter recognized under the common law of this state; or

(c) The ability of courts to impose equitable or constructive liens.

NEW SECTION. Sec. 2. Nonconsensual common law liens against real property shall not be recognized or enforceable. Nonconsensual common law liens claimed against any personal property shall not be recognized or enforceable if, at any time the lien is claimed, the claimant fails to retain actual lawfully acquired possession or exclusive control of the property.

NEW SECTION. Sec. 3. No person has a duty to accept for filing or recording any claim of lien unless the lien is authorized by statute or imposed by a court having jurisdiction over property affected by the lien, nor does any person have a duty to reject for filing or recording any claim of lien.

NEW SECTION. Sec. 4. No person has a duty to disclose an instrument of record or file that attempts to give notice of a common law lien. This section does not relieve any person of any duty which otherwise may

exist to disclose a claim of lien authorized by statute or imposed by order of a court having jurisdiction over property affected by the lien.

NEW SECTION. Sec. 5. A person is not liable for damages arising from a refusal to record or file or a failure to disclose any claim of a common law lien of record.

Sec. 6. Section 14, chapter 260, Laws of 1981 as last amended by section 1, chapter 146, Laws of 1984 and RCW 60.28.010 are each amended to read as follows:

(1) Contracts for public improvements or work, other than for professional services, by the state, or any county, city, town, district, board, or other public body, herein referred to as "public body", shall provide, and there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum not to exceed five percent, said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor. Every person performing labor or furnishing supplies toward the completion of said improvement or work shall have a lien upon said moneys so reserved: PROVIDED, That such notice of the lien of such claimant shall be given in the manner and within the time provided in RCW 39.08.030 as now existing and in accordance with any amendments that may hereafter be made thereto: PROVIDED FURTHER, That the board, council, commission, trustees, officer or body acting for the state, county or municipality or other public body; (a) at any time after fifty percent of the original contract work has been completed, if it finds that satisfactory progress is being made, may make any of the partial payments which would otherwise be subsequently made in full; but in no event shall the amount to be retained be reduced to less than five percent of the amount of the moneys earned by the contractor: PROVIDED, That the contractor may request that retainage be reduced to one hundred percent of the value of the work remaining on the project; and (b) thirty days after completion and acceptance of all contract work other than landscaping, may release and pay in full the amounts retained during the performance of the contract (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of RCW 60.28.020.

(2) The moneys reserved under the provisions of subsection (1) of this section, at the option of the contractor, shall be:

(a) Retained in a fund by the public body until thirty days following the final acceptance of said improvement or work as completed;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: PROVIDED, That interest on such account shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body until thirty days following the final acceptance of said improvement or work as completed. When the moneys reserved are to be placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. Such check shall be converted into bonds and securities chosen by the contractor and approved by the public body and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the contractor as the said interest accrues.

(3) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor shall pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(4) With the consent of the public body the contractor may submit a bond for all or any portion of the amount of funds retained by the public body in a form acceptable to the public body. Such bond and any proceeds therefrom shall be made subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body shall release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(5) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in such case any amounts retained and accumulated under this section shall be held for a period of thirty days following such acceptance. In the event that the work

shall have been terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter 60.28 RCW shall be deemed exclusive and shall supersede all provisions and regulations in conflict herewith.

(6) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, thirty days after completion and final acceptance of each ferry vessel, the department may release and pay in full the amounts retained in connection with the construction of such vessel subject to the provisions of RCW 60.28.020: PROVIDED, That the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on such ferry after a period of thirty days following final acceptance of such ferry; and if such taxes are certified or claims filed, recovery may be had on such bond by the department of revenue and the materialmen and laborers filing claims.

(7) ~~((On projects commenced after June 7, 1984, the trust fund established pursuant to subsection (1) of this section may be reserved for the protection of the owner or owners of such public improvements when specifically required by regulations of the farmers home administration for the provision of grant or loan funds administered by that agency))~~ Contracts on projects funded in whole or in part by Farmers Home Administration and subject to Farmers Home Administration regulations shall not be subject to subsections (1) through (6) of this section.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act shall constitute a new chapter to Title 60 RCW.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 182

[Substitute Senate Bill No. 4425]

LIVESTOCK SOLD FOR PERSONAL CONSUMPTION—SALES AND USE TAX EXEMPTION

AN ACT Relating to livestock; and amending RCW 82.08.0293 and 82.12.0293.

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

Sec. 1. Section 33, chapter 35, Laws of 1982 1st ex. sess. as amended by section 1, chapter 104, Laws of 1985 and RCW 82.08.0293 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products including livestock sold for personal consumption, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this subsection shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals (i) under a state administered nutrition program for the aged as provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6) or (ii) which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW, or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

(2) Subsection (1) of this section notwithstanding, the retail sale of food products is subject to sales tax under RCW 82.08.020 if the food products are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

This subsection does not apply to hot prepared food products, other than food products which are heated after they have been dispensed from the vending machine.

For tax collected under this subsection, the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

Sec. 2. Section 34, chapter 35, Laws of 1982 1st ex. sess. as amended by section 2, chapter 104, Laws of 1985 and RCW 82.12.0293 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products including livestock sold for personal consumption, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this paragraph shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals (i) under a state administered nutrition program for the aged as provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6) or (ii) which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW, or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c)

when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

Passed the Senate February 17, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 183

[Engrossed Senate Bill No. 4463]

PROMOTION OF WASHINGTON PRODUCTS

AN ACT Relating to the promotion of Washington products; adding a new section to chapter 43.31 RCW; creating new sections; making an appropriation; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature declares that:

(1) The development and sale of Washington business products is a vital element in expanding the state economy.

(2) The marketing of items produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, and provides an important stimulation to the economic strength of Washington companies.

(3) State government should play a significant role in the development and expansion of markets for Washington products.

NEW SECTION. Sec. 2. The department of trade and economic development is directed to develop and promote means to stimulate the expansion of the market for Washington products and shall have the following powers and duties:

(1) To develop a pamphlet for state-wide circulation which will encourage the purchase of items produced in the state of Washington;

(2) To include in the pamphlet a listing of products of Washington companies which individuals can examine when making purchases so they may have the opportunity to select one of those products in support of this program;

(3) To distribute the pamphlets on the broadest possible basis through local offices of state agencies, business organizations, chambers of commerce, or any other means the department deems appropriate;

(4) In carrying out these powers and duties the department shall cooperate and coordinate with other agencies of government and the private sector.

NEW SECTION. Sec. 3. The sum of ten thousand dollars, or so much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the department of trade and economic development for the purposes of sections 1 and 2 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 43.31 RCW to read as follows:

The legislature hereby acknowledges the growing importance of trade development services in increasing the promotion and export of Washington products and facilitating trade through the state. It is important for the state to act as a partner to other public and private organizations to provide for a coordinated trade information network for users of trade services.

(1) The department is directed to utilize a sum of up to fifty thousand dollars from the surplus funds in the state trade fair fund, as permitted by RCW 43.31.832, for the purposes of subsection (2) of this section.

(2) The department shall assist in the analysis and development of recommendations to provide for coordinated, accurate, and up-to-date trade information services between users and providers of trade services. A feasibility study shall be conducted of the best and most efficient process available to provide essential trade services to public and private organizations. The department shall encourage private sector involvement and utilize existing resources whenever possible to support product marketing and coordinated trade services.

(3) The department shall report to the legislature by January 1, 1987, on its activities and findings under this section.

(4) This section shall expire on June 30, 1987.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 12, 1986.

Passed the House March 12, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 184

[Substitute Senate Bill No. 4531]

MENTAL HEALTH SERVICES—INSURANCE COVERAGE

AN ACT Relating to insurance for mental health services; amending RCW 48.21.240, 48.44.340, and 48.46.290; creating a new section; and providing an effective date.

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

NEW SECTION, Sec. 1. It is the intent of the legislature that all insurers, health care service contractors, and health maintenance organizations that provide health care coverage in the state shall offer the option of including mental health treatment in their health benefit plans. Further it is the intent of the legislature that all mental health care benefit plans shall provide reimbursement for mental health treatment by every type of provider listed as follows: Physicians licensed under chapter 18.71 or 18.57 RCW, psychologists licensed under chapter 18.83 RCW, and community mental health agencies licensed under chapter 71.24 RCW.

Sec. 2. Section 1, chapter 35, Laws of 1983 and RCW 48.21.240 are each amended to read as follows:

(1) Each group insurer providing disability insurance coverage in this state for hospital or medical care under contracts which ((is)) are issued, delivered, or renewed in this state on or after July 1, ((1983)) 1986, shall offer optional supplemental coverage for mental health treatment for the insured and the insured's covered dependents.

~~((Treatment shall be covered))~~

(2) Benefits shall be provided under the optional supplemental coverage ((if)) for mental health treatment whether treatment is rendered by: (a) A physician licensed under chapter 18.71 or 18.57 RCW; (b) a psychologist licensed under chapter 18.83 RCW; or (c) a community mental health agency licensed by the department of social and health services pursuant to chapter 71.24 RCW. The treatment shall be covered at the usual and customary rates for such treatment. The insurer, health care service contractor, or health maintenance organization providing optional coverage under the provisions of this section for mental health services may establish separate usual and customary rates for services rendered by physicians licensed under chapter 18.71 or 18.57 RCW, psychologists licensed under chapter 18.83 RCW, and community mental health centers licensed under chapter 71.24 RCW. However, the treatment may be subject to contract provisions with respect to reasonable deductible amounts or copayments. In order to qualify for coverage under this section, a licensed community mental health agency shall have in effect a plan for quality assurance and peer review, and the treatment shall be supervised by a physician licensed under chapter 18.71 or 18.57 RCW or by a psychologist licensed under chapter 18.83 RCW.

~~((2))~~ (3) The group disability insurance contract may provide that all the coverage for mental health treatment is waived for all covered members if the contract holder so states in advance in writing to the insurer.

(4) This section shall not apply to a group disability insurance contract that has been entered into in accordance with a collective bargaining agreement between management and labor representatives prior to the effective date of this 1986 act.

Sec. 3. Section 2, chapter 35, Laws of 1983 and RCW 48.44.340 are each amended to read as follows:

(1) Each health care service contractor providing hospital or medical services or benefits in this state under group contracts for health care services under this chapter which ~~((is))~~ are issued, delivered, or renewed in this state on or after July 1, ~~((1983))~~ 1986, shall offer optional supplemental coverage for mental health treatment for the insured and the insured's covered dependents.

~~((Treatment shall be covered))~~ (2) Benefits shall be provided under the optional supplemental coverage ((if)) for mental health treatment whether treatment is rendered by: (a) A physician licensed under chapter 18.71 or 18.57 RCW; (b) a psychologist licensed under chapter 18.83 RCW; or (c) a community mental health agency licensed by the department of social and health services pursuant to chapter 71.24 RCW. The treatment shall be covered at the usual and customary rates for such treatment. The insurer, health care service contractor, or health maintenance organization providing optional coverage under the provisions of this section for mental health services may establish separate usual and customary rates for services rendered by physicians licensed under chapter 18.71 or 18.57 RCW, psychologists licensed under chapter 18.83 RCW, and community mental health centers licensed under chapter 71.24 RCW. However, the treatment may be subject to contract provisions with respect to reasonable deductible amounts or copayments. In order to qualify for coverage under this section, a licensed community mental health agency shall have in effect a plan for quality assurance and peer review, and the treatment shall be supervised by a physician licensed under chapter 18.71 or 18.57 RCW or by a psychologist licensed under chapter 18.83 RCW.

~~((2))~~ (3) The group contract for health care services may provide that all the coverage for mental health treatment is waived for all covered members if the contract holder so states in advance in writing to the health care service contractor.

(4) This section shall not apply to a group health care service contract that has been entered into in accordance with a collective bargaining agreement between management and labor representatives prior to the effective date of this 1986 act.

Sec. 4. Section 3, chapter 35, Laws of 1983 and RCW 48.46.290 are each amended to read as follows:

(1) Each health maintenance organization providing services or benefits for hospital or medical care coverage in this state under group health maintenance agreements which ~~((is))~~ are issued, delivered, or renewed in this state on or after July 1, ~~((1983))~~ 1986, shall offer optional supplemental coverage for mental health treatment to the enrolled participant and the enrolled participant's covered dependents.

~~((Treatment shall be covered))~~ (2) Benefits shall be provided under the optional supplemental coverage ((if)) for mental health treatment whether treatment is rendered by the health maintenance organization or ((if)) the

health maintenance organization refers the enrolled participant or the enrolled participant's covered dependents for treatment to: (a) A physician licensed under chapter 18.71 or 18.57 RCW; (b) a psychologist licensed under chapter 18.83 RCW; or (c) a community mental health agency licensed by the department of social and health services pursuant to chapter 71.24 RCW. The treatment shall be covered at the usual and customary rates for such treatment. The insurer, health care service contractor, or health maintenance organization providing optional coverage under the provisions of this section for mental health services may establish separate usual and customary rates for services rendered by physicians licensed under chapter 18.71 or 18.57 RCW, psychologists licensed under chapter 18.83 RCW, and community mental health centers licensed under chapter 71.24 RCW. However, the treatment may be subject to contract provisions with respect to reasonable deductible amounts or copayments. In order to qualify for coverage under this section, a licensed community mental health agency shall have in effect a plan for quality assurance and peer review, and the treatment shall be supervised by a physician licensed under chapter 18.71 or 18.57 RCW or by a psychologist licensed under chapter 18.83 RCW.

~~((2))~~ (3) The group health maintenance agreement may provide that all the coverage for mental health treatment is waived for all covered members if the contract holder so states in advance in writing to the health maintenance organization.

(4) This section shall not apply to a group health maintenance agreement that has been entered into in accordance with a collective bargaining agreement between management and labor representatives prior to the effective date of this 1986 act.

NEW SECTION. Sec. 5. This act shall take effect March 1, 1987.

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 March 12, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 185

[Substitute Senate Bill No. 4571]

REWARDS

AN ACT Relating to rewards; and amending RCW 10.85.030, 10.85.040, and 10.85.050.

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

Sec. 1. Section 1, page 124, Laws of 1886 as last amended by section 1, chapter 211, Laws of 1981 and RCW 10.85.030 are each amended to read as follows:

The legislative authority of any county in the state ((σ)), a port commission, or the governing body of a city or town, when in its opinion the public good requires it, is hereby authorized to offer and pay a suitable reward to any person or persons for information leading to:

(a) The arrest of a specified person or persons convicted of or charged with any criminal offense; or

(b) The arrest and conviction of a person or persons committing a specified criminal offense.

In the event of crimes against county ((σ)), port district, city, or town property, including but not limited to road signs, vehicles, buildings, or any other type of county ((σ)), port district, city, or town property, the legislative authority of any county ((σ)), a port commission, or the governing body of a city or town may offer and pay a suitable reward to any person or persons who shall furnish information leading to the arrest and conviction of any person of any offense against this county ((σ)), port district, city, or town property, including but not limited to those offenses set forth in RCW 9A.48.070 through 9A.48.090, whether or not the offense is a felony, gross misdemeanor, or misdemeanor.

Sec. 2. Section 3, page 124, Laws of 1886 as amended by section 2, chapter 53, Laws of 1979 ex. sess. and RCW 10.85.040 are each amended to read as follows:

When more than one claimant applies for the payment of any reward, offered by any county legislative authority, board of commissioners of a port district, or city or town governing body, the county legislative authority, board of commissioners of a port district, or city or town governing body shall determine to whom the same shall be paid, and if to more than one person, in what proportion to each; and their determination shall be final and conclusive.

Sec. 3. Section 2, page 124, Laws of 1886 as amended by section 3, chapter 53, Laws of 1979 ex. sess. and RCW 10.85.050 are each amended to read as follows:

Whenever any reward has been offered by any county legislative authority, board of commissioners of a port district, or city or town governing body in the state under RCW 10.85.030, the person or persons providing the information shall be entitled to the reward, and the county legislative authority, board of commissioners of a port district, or city or town governing body which has offered the reward is authorized to draw a warrant or

warrants out of any money in the county, port district, or city or town treasury, as appropriate, not otherwise appropriated.

Passed the Senate March 8, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 186

[Substitute Senate Bill No. 4536]

MOTOR VEHICLE REGISTRATION—OFF-ROAD VEHICLE CERTIFICATE OF OWNERSHIP—LICENSURE OF NONROADWORTHY VEHICLES, IMMUNITY

AN ACT Relating to motor vehicle registration; amending RCW 46.16.010 and 46.16.028; reenacting and amending RCW 46.63.020; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.16 RCW; and prescribing penalties.

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

Sec. 1. Section 46.16.010, chapter 12, Laws of 1961 as last amended by section 1, chapter 148, Laws of 1977 ex. sess. and RCW 46.16.010 are each amended to read as follows:

It shall be unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided(~~(-PROVIDED; That)~~). Failure to make initial registration before operation on the highways of this state is a misdemeanor, and any person convicted thereof shall be punished by a fine of no less than one hundred sixty-five dollars, no part of which may be suspended or deferred. Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

These provisions shall not apply to farm vehicle as defined in RCW 46.04.181 if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law: PROVIDED FURTHER, That these provisions shall not apply to spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing or loading of spray and fertilizer applicator rigs and not used, designed or modified primarily for the purpose of transportation: PROVIDED FURTHER, That these provisions shall not apply to fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet

of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to equipment defined as follows:

"Special highway construction equipment" is any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (1) are in excess of the legal width or (2) which, because of their length, height or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (3) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

Sec. 2. Section 1, chapter 353, Laws of 1985 and RCW 46.16.028 are each amended to read as follows:

(1) For the purposes of vehicle license registration, a resident is a person who:

(a) Owns a vehicle that is licensable under this chapter and that is physically present in the state of Washington more than six months in any continuous twelve-month period; or

(b) Resides in this state more than six months in any continuous twelve-month period; or

(c) Becomes a registered voter in this state; or

(d) Receives benefits under one of the Washington public assistance programs; or

(e) Declares himself to be a resident for the purpose of obtaining a state license or tuition fees at resident rates.

(2) A resident of the state shall register under chapters 46.12 and 46.16 RCW a ((motor)) vehicle to be operated on the highways of the state.

~~((3) It is a misdemeanor for a person to violate this section.))~~

Sec. 3. Section 12, chapter 10, Laws of 1982 as last amended by section 7, chapter 302, Laws of 1985 and by section 2, chapter 353, Laws of 1985 and by section 28, chapter 377, Laws of 1985 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 ~~((46.16.028))~~ 46.16.010 relating to initial registration of motor vehicles ~~((by residents))~~;

(7) RCW 46.16.160 relating to vehicle trip permits;

(8) RCW 46.20.021 relating to driving without a valid driver's license;

(9) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(10) RCW 46.20.342 relating to driving with a suspended or revoked license;

(11) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(12) RCW 46.20.416 relating to driving while in a suspended or revoked status;

(13) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(14) Chapter 46.29 RCW relating to financial responsibility;

- (15) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (16) RCW 46.48.175 relating to the transportation of dangerous articles;
- (17) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (18) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (19) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (20) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (21) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;
- (22) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (23) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- (24) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (25) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (26) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (27) RCW 46.61.500 relating to reckless driving;
- (28) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- (29) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (30) RCW 46.61.522 relating to vehicular assault;
- (31) RCW 46.61.525 relating to negligent driving;
- (32) RCW 46.61.530 relating to racing of vehicles on highways;
- (33) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (34) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (35) RCW 46.64.020 relating to nonappearance after a written promise;
- (36) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (37) Chapter 46.65 RCW relating to habitual traffic offenders;
- (38) 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;

(39) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(40) Chapter 46.80 RCW relating to motor vehicle wreckers;

(41) Chapter 46.82 RCW relating to driver's training schools.

NEW SECTION. Sec. 4. A new section is added to chapter 46.12 RCW to read as follows:

The department shall issue a certificate of ownership valid for title purposes only to the owner of an off-road vehicle as defined in RCW 46.09.020. The owner shall pay the fees established by RCW 46.12.040. Issuance of such certificate does not qualify the vehicle for licensing under chapter 46.16 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 46.16 RCW to read as follows:

The director, the state of Washington, and its political subdivisions shall be immune from civil liability arising from the issuance of a vehicle license to a nonroadworthy vehicle.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 187

[Substitute Senate Bill No. 4544]

VULNERABLE ADULTS—PROTECTION

AN ACT Relating to vulnerable adults; amending RCW 74.34.030, 74.34.040, and 74.34.050; and adding new sections to chapter 74.34 RCW.

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

Sec. 1. Section 9, chapter 97, Laws of 1984 and RCW 74.34.030 are each amended to read as follows:

((When a)) Any person, including but not limited to, financial institutions or attorneys, having reasonable cause to believe that a vulnerable adult has suffered abuse, exploitation, neglect, or abandonment, or is otherwise in need of protective services may report such information to the department. Any police officer, social worker, employee of the department, a social service, welfare, mental health, or health agency, congregate long-term care facility, or health care ((practitioner)) provider licensed under Title 18 RCW, including but not limited to doctors, nurses, psychologists, and pharmacists, ((has)) having reasonable cause to believe that a vulnerable adult has suffered abuse, exploitation, neglect, or abandonment, ((the person)) shall make an immediate oral report ((the incident, or cause a report to be

made;)) of such information to the department and shall report such information in writing to the department within ten calendar days of receiving the information.

Sec. 2. Section 10, chapter 97, Laws of 1984 and RCW 74.34.040 are each amended to read as follows:

~~((A person making a report under RCW 74.34.030 shall make an immediate oral report to the department and shall also make a written report as soon as practicable. Unless there is a judicial proceeding or the person consents, the identity of the person making the report is confidential.))~~ The reports made under RCW 74.34.030 shall contain the following information if known:

- (1) Identification of the vulnerable adult;
- (2) The nature and extent of the suspected abuse, neglect, exploitation, or abandonment;
- (3) Evidence of previous abuse, neglect, exploitation, or abandonment;
- (4) The name and address of the person making the report; and
- (5) Any other helpful information.

Unless there is a judicial proceeding or the person consents, the identity of the person making the report is confidential.

Sec. 3. Section 11, chapter 97, Laws of 1984 and RCW 74.34.050 are each amended to read as follows:

(1) A person participating in good faith in making a report under this chapter or testifying about the abuse, neglect, abandonment, or exploitation of a vulnerable adult in a judicial proceeding under this chapter is immune from liability resulting from the report or testimony. The making of permissive reports as allowed in RCW 74.34.030 does not create any duty to report and no civil liability shall attach for any failure to make a permissive report under RCW 74.34.030.

(2) Conduct conforming with the reporting and testifying provisions of this chapter shall not be deemed a violation of any confidential communication privilege. Nothing in this chapter shall be construed as superseding or abridging remedies provided in chapter 4.92 RCW.

NEW SECTION. Sec. 4. The legislature finds that vulnerable adults, who are physically or emotionally abused or financially exploited may need the protection of the courts. The legislature further finds that many of these elderly persons may be homebound or otherwise may be unable to represent themselves in court or to retain legal counsel in order to obtain the relief available to them under this chapter.

NEW SECTION. Sec. 5. An action known as a petition for an order for protection of a vulnerable adult in cases of abuse or exploitation is created.

(1) A vulnerable adult may seek relief from abuse or exploitation, or the threat thereof, by filing a petition for an order for protection in superior court.

(2) A petition shall allege that the petitioner is a vulnerable adult and that the petitioner has been abused or exploited or is threatened with abuse or exploitation by respondent.

(3) A petition shall be accompanied by affidavit made under oath stating the specific facts and circumstances which demonstrate the need for the relief sought.

(4) A petition for an order may be made whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(5) A petitioner is not required to post bond to obtain relief in any proceeding under this section.

(6) An action under this section shall be filed in the county where the petitioner resides; except that if the petitioner has left the residence as a result of abuse or exploitation, or in order to avoid abuse or exploitation, the petitioner may bring an action in the county of either the previous or new residence.

NEW SECTION. Sec. 6. The court shall order a hearing on a petition under section 5 of this act not later than fourteen days from the date of filing the petition. Personal service shall be made upon the respondent not less than five court days before the hearing. If timely service cannot be made, the court may set a new hearing date. A petitioner may move for temporary relief under chapter 7.40 RCW.

NEW SECTION. Sec. 7. The court may order relief as it deems necessary for the protection of the petitioner, including, but not limited to the following:

(1) Restraining respondent from committing acts of abuse or exploitation;

(2) Excluding the respondent from petitioner's residence for a specified period or until further order of the court;

(3) Prohibiting contact by respondent for a specified period or until further order of the court;

(4) Requiring an accounting by respondent of the disposition of petitioner's income or other resources;

(5) Restraining the transfer of property for a specified period not exceeding ninety days;

(6) Requiring 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.

Any relief granted by an order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year.

NEW SECTION. Sec. 8. When an order for protection under section 7 of this act is issued upon request of the petitioner, the court may order a peace officer to assist in the execution of the order of protection.

NEW SECTION. Sec. 9. The department of social and health services, in its discretion, may seek relief under sections 5 through 8 of this act on behalf of and with the consent of any vulnerable adult. Neither the department of social and health services nor the state of Washington shall be liable for failure to seek relief on behalf of any persons under this section.

NEW SECTION. Sec. 10. The provision of services under RCW 74.34.030, 74.34.040, 74.34.050, and sections 4 through 11 of this act are discretionary and the department shall not be required to expend additional funds beyond those appropriated.

NEW SECTION. Sec. 11. Any proceeding under sections 5 through 9 of this act is in addition to any other civil or criminal remedies.

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. Sections 4 through 11 of this act are added to chapter 74.34 RCW.

Passed the Senate March 8, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 188

[Senate Bill No. 4551]

ASSAULT ON FIRE PROTECTION PERSONNEL—CLASS C FELONY

AN ACT Relating to assault on fire protection personnel; and amending RCW 9A.36.030.

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

Sec. 1. Section 9A.36.030, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 140, Laws of 1982 and RCW 9A.36.030 are each amended to read as follows:

(1) Every person who, under circumstances not amounting to assault in either the first or second degree, shall be guilty of assault in the third degree when he:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person shall assault another; or

(b) With criminal negligence, shall cause physical injury to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(c) Assaults a person employed as a transit operator or driver by a public or private transit company while that person is operating or is in control of a vehicle owned or operated by the transit company; or

(d) Assaults a fire fighter or other employee of a fire department or fire protection district who was performing his or her official duties at the time of the assault.

(2) Assault in the third degree is a class C felony.

Passed the Senate February 15, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 189

[Senate Bill No. 4584]

LIBRARY DISTRICTS DEFINED FOR DISTRIBUTION OF THERMAL ELECTRIC GENERATING FACILITY TAX

AN ACT Relating to library districts; amending RCW 54.28.055; and declaring an emergency.

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

Sec. 1. Section 7, chapter 366, Laws of 1977 ex. sess. as last amended by section 22, chapter 35, Laws of 1982 1st ex. sess. and RCW 54.28.055 are each amended to read as follows:

(1) After computing the tax imposed by RCW 54.28.025(1), the department of revenue shall instruct the state treasurer to distribute the amount collected as follows:

(a) Fifty percent to the state general fund for the support of schools; and

(b) Twenty-two percent to the counties, twenty-three percent to the cities, three percent to the fire protection districts, and two percent to the library districts.

(2) Each county, city, fire protection district and library district shall receive a percentage of the amount for distribution to counties, cities, fire protection districts and library districts, respectively, in the proportion that the population of such district residing within the impacted area bears to the total population of all such districts residing within the impacted area. For the purposes of this chapter, the term "library district" includes only regional libraries as defined in RCW 27.12.010(4), rural county library districts as defined in RCW 27.12.010(5), intercounty rural library districts as defined in RCW 27.12.010(6), and island library districts as defined in RCW 27.12.010(7). The population of a library district, for purposes of

such a distribution, shall not include any population within the library district and the impact area that also is located within a city or town.

(3) If any distribution pursuant to subsection (1)(b) of this section cannot be made, then that share shall be prorated among the state and remaining local districts.

(4) All distributions directed by this section to be made on the basis of population shall be calculated in accordance with data to be provided by the office of financial management.

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

Passed the Senate March 8, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 190

[Substitute Senate Bill No. 4553]

BEEF COMMISSION—ADDITIONAL ASSESSMENT FOR NATIONAL BEEF PROMOTION AND RESEARCH

AN ACT Relating to the state beef commission; amending RCW 16.67.120 and 16.67.150; and adding a new section to chapter 16.67 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 16.67 RCW to read as follows:

In addition to the assessment authorized pursuant to RCW 16.67.120, the commission shall have the authority to collect an additional assessment of fifty cents per head for cattle subject to assessment by federal order for the purpose of providing funds for a national beef promotion and research program. The manner in which this assessment will be levied and collected shall be established by rule. The authority to collect this assessment shall be contingent upon the implementation of federal legislation providing for a national beef promotion and research program and the establishment of the assessment requirement to fund its activities.

Sec. 2. Section 11, chapter 133, Laws of 1969 as last amended by section 1, chapter 47, Laws of 1982 and RCW 16.67.120 are each amended to read as follows:

There is hereby levied an assessment of fifty cents per head on all Washington cattle sold in this state or elsewhere to be paid by the seller at the time of sale: PROVIDED, That if the assessment levied pursuant to this section is greater than one percent of the sales price, the animal is exempt

from the assessment unless the federal order implementing the national beef promotion and research program establishes an assessment on these animals: PROVIDED FURTHER, That if such sale is accompanied by a brand inspection by the department such assessment shall be collected at the same time, place and in the same manner as brand inspection fees. Such fees shall be collected by the ((regulatory)) livestock services division of the department and transmitted to the commission: PROVIDED FURTHER, That, if such sale is made without a brand inspection by the department the assessment shall be paid by the seller and transmitted directly to the commission not later than thirty days following the sale.

Sec. 3. Section 14, chapter 133, Laws of 1969 and RCW 16.67.150 are each amended to read as follows:

The assessment provided for in RCW ((+6.67.130)) 16.67.120 shall not be applicable to any animal sold for milk production unless the federal order implementing the national beef promotion and research program establishes an assessment on the animals.

Passed the Senate February 5, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 191

[Substitute Senate Bill No. 4664]

RADIOACTIVE OPERATIONS—LIABILITY REQUIREMENTS

AN ACT Relating to liability requirements for nuclear operations; amending RCW 81.80.190; adding new sections to chapter 43.200 RCW; and adding a new section to chapter 70.98 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.200 RCW to read as follows:

(1) The director of the department of ecology shall periodically review the potential for bodily injury and property damage in the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials under licenses or permits issued by the state.

(2) The director shall, upon the completion of each review, determine by rule the minimum amount of liability coverage that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials.

(3) The director shall require the maximum amount of liability coverage available from private sources, including insurance, surety bonds, corporate guarantees, and other acceptable instruments, unless the director determines that a lesser amount is adequate to protect the state and its citizens pursuant to this section.

(4) In making the determination, the director shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of material being packaged, transported, buried, or otherwise handled;

(c) The location where the material is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant; and

(d) The legal defense cost, if any, that will be paid from the required liability coverage amount.

(5) The director may establish different levels of required liability coverage for various classes of license or permit holders.

(6) The director shall establish by rule the instruments or mechanisms by which a person may demonstrate liability coverage as required by sections 2 and 3 of this act. Any instrument or mechanism approved as an alternative to liability insurance shall provide the state and its citizens with a level of financial protection at least as great as would be provided by liability insurance.

(7) The director shall complete the first review and determination, and report the results to the legislature, by December 1, 1987. At least every five years thereafter, the director shall conduct a new review and determination and report its results to the legislature.

NEW SECTION. Sec. 2. A new section is added to chapter 43.200 RCW to read as follows:

(1) The department of ecology shall require that any person who holds or applies for a license or permit under this chapter (a) indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property, arising or growing out of any operations and activities for which the person holds the license or permit, and any necessary or incidental operations, and (b) demonstrate that the person has and maintains liability coverage for the operations for which the state has been indemnified and held harmless pursuant to this section. The agency shall require coverage in an amount determined by the director of the department of ecology pursuant to section 1 of this act.

(2) The department of ecology shall suspend the license or permit of any person required by this section to hold and maintain liability coverage who fails to demonstrate compliance with this section. The license or permit shall not be reinstated until the person demonstrates compliance with this section.

(3) The department of ecology shall require (a) that any person required to maintain liability coverage maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents used to comply with this section, (b) that the agency be notified of any changes in the insurance coverage or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section.

NEW SECTION. Sec. 3. A new section is added to chapter 70.98 RCW to read as follows:

(1) The radiation control agency shall require that any person who holds or applies for a license or permit under this chapter (a) indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property, arising or growing out of any operations or activities for which the person holds the license or permit, and any necessary or incidental operations, and (b) demonstrate that the person has and maintains liability coverage for the operations for which the state has been indemnified and held harmless pursuant to this section. The agency shall require coverage in an amount determined by the director of the department of ecology pursuant to section 1 of this act.

(2) The radiation control agency shall suspend the license or permit of any person required by this section to hold and maintain liability coverage who fails to demonstrate compliance with this section. The license or permit shall not be reinstated until the person demonstrates compliance with this section.

(3) The radiation control agency shall require (a) that any person required to maintain liability coverage maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents used to comply with this section, (b) that the agency be notified of any changes in the insurance coverage or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section.

NEW SECTION. Sec. 4. A new section is added to chapter 43.200 RCW to read as follows:

The provisions of this act shall not have the effect of reducing the level of liability coverage required under any law, regulation, or contract of the state before December 31, 1987, or the effective date of the first determination made pursuant to section 1 of this act, if earlier.

Sec. 5. Section 81.80.190, chapter 14, Laws of 1961 and RCW 81.80.190 are each amended to read as follows:

The commission shall in the granting of permits to "common carriers" and "contract carriers" under this chapter require such carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the state of Washington, or deposit such

security, for such limits of liability and upon such terms and conditions as the commission shall determine to be necessary for the reasonable protection of the public against damage and injury for which such carrier may be liable by reason of the operation of any motor vehicle.

In fixing the amount of said insurance policy or policies, or deposit of security, the commission shall give due consideration to the character and amount of traffic and the number of persons affected and the degree of danger which the proposed operation involves.

If the commission is notified of the cancellation, revocation, or any other changes in the required insurance or security of a common carrier or contract carrier with a permit to transport radioactive or hazardous materials, the commission shall immediately notify the state radiation control agency of the change.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 17, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 192

[Engrossed Senate Bill No. 4678]
JOB SITE SAFETY INSPECTIONS

AN ACT Relating to job site safety inspections; and amending RCW 49.17.100.

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

Sec. 1. Section 10, chapter 80, Laws of 1973 and RCW 49.17.100 are each amended to read as follows:

A representative of the employer and ((a)) an employee representative ((employee)) authorized by the employees of such employer shall be given an opportunity to accompany the director, or his authorized representative, during the physical inspection of any work place for the purpose of aiding such inspection. Where there is no authorized employee representative, the director or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the work place. The director may adopt procedural rules and regulations to implement the provisions of this section: PROVIDED, That neither this section, nor any other provision of this chapter, shall be construed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing

concerning wages or standards or conditions of employment which equal or exceed those established under the authority of this chapter.

Passed the Senate February 12, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 193

[Substitute Senate Bill No. 4682]

INDUSTRIAL INSURANCE—OFFENDERS PERFORMING COMMUNITY SERVICES

AN ACT Relating to offenders performing community service; and amending RCW 51.12.045 and 72.09.100.

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

Sec. 1. Section 1, chapter 266, Laws of 1981 as amended by section 4, chapter 24, Laws of 1984 and RCW 51.12.045 are each amended to read as follows:

Offenders performing community services pursuant to court order or under RCW 13.40.080 may be deemed employees and/or workers under this title at the option of the state, county, city, ((or)) town, or nonprofit organization under whose authorization the services are performed. Any premiums or assessments due under this title for community services work shall be the obligation of and be paid for by the state agency, county, city, ((or)) town ((in)), or nonprofit organization for which the offender performed the community services. Coverage commences when a state agency, county, city, ((or)) town, or nonprofit organization has given notice to the director that it wishes to cover offenders performing community services before the occurrence of an injury or contraction of an occupational disease.

Sec. 2. Section 11, chapter 136, Laws of 1981 as last amended by section 1, chapter 151, Laws of 1985 and RCW 72.09.100 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES. The industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage not less than sixty percent of the approximate prevailing wage within the state for the occupation, as determined by the director of the institutional industries division. If the director finds that he cannot reasonably determine the wage, then the pay shall not be less than the federal minimum wage.

(2) **CLASS II: TAX REDUCTION INDUSTRIES.** Industries in this class shall be state-owned and operated enterprises designed to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations. The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to public agencies and to nonprofit organizations: PROVIDED, That to avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, byproducts and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus by-products and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

Security and custody services shall be provided without charge by the department of corrections.

Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the federal minimum wage and which is approved by the director of institutional industries.

(3) **CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.** Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(a) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within institutional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(b) Whenever possible, to provide forty hours of work or work training per week.

(c) Whenever possible, to offset tax and other public support costs.

Supervising, management, and custody staff shall be employees of the department.

All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the minimum wage for their work.

(5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an offender, placed on community supervision, to work off all or part of a community service order as ordered by the sentencing court.

Employment shall be in a community service program operated by the state, local units of government, or a nonprofit agency.

To the extent that funds are specifically made available for such purposes, the department of corrections shall reimburse ~~((participating units of local government and))~~ nonprofit agencies for workers compensation insurance costs.

Passed the Senate February 16, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 194

[Engrossed Substitute Senate Bill No. 4683]

DEATH PENALTY—INTRAVENOUS INJECTION OF A SUBSTANCE IN A LETHAL QUANTITY

AN ACT Relating to the death penalty; and amending RCW 10.95.180.

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

Sec. 1. Section 18, chapter 138, Laws of 1981 and RCW 10.95.180 are each amended to read as follows:

(1) The punishment of death shall be supervised by the superintendent of the penitentiary and shall be inflicted either by hanging by the neck (~~((until death is pronounced by a licensed physician))~~) or, at the election of the defendant, by (~~((continuous, intravenous administration of a lethal dose of sodium thiopental until death is pronounced by a licensed physician))~~) intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until the defendant is dead. In any case, death shall be pronounced by a licensed physician.

(2) All executions, for both men and women, shall be carried out within the walls of the state penitentiary.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 195

[Senate Bill No. 4708]

COMPETENCY OF WITNESSES—AGE

AN ACT Relating to competency of witnesses; and amending RCW 5.60.020 and 5.60.050.

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

Sec. 1. Section 289, page 186, Laws of 1854 as last amended by section 388, Code of 1881 and RCW 5.60.020 are each amended to read as follows:

Every person of sound mind (~~((suitable age))~~) and discretion, except as hereinafter provided, may be a witness in any action, or proceeding.

Sec. 2. Section 293, page 186, Laws of 1854 as last amended by section 391, Code of 1881 and RCW 5.60.050 are each amended to read as follows:

The following persons shall not be competent to testify:

(1) Those who are of unsound mind, or intoxicated at the time of their production for examination, and

(2) (~~((Children under ten years of age;))~~) Those who appear incapable of receiving just impressions of the facts, respecting which they are examined, or of relating them truly.

Passed the Senate February 11, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 196

[Engrossed Substitute Senate Bill No. 4710]

AUTOMATIC FINGERPRINT INFORMATION SYSTEM

AN ACT Relating to the automatic fingerprint information system; adding new sections to chapter 43.43 RCW; and making an appropriation.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

(1) To support criminal justice services in the local communities throughout this state, the state patrol shall develop a plan for and implement an automatic fingerprint information system. In implementing the automatic fingerprint information system, the state patrol shall either purchase or lease the appropriate computer systems. If the state patrol leases a system, the lease agreement shall include purchase options. The state patrol shall procure the most efficient system available.

(2) The state patrol shall report on the automatic fingerprint information system to the legislature no later than January 1, 1987. 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. 2. A new section is added to chapter 43.43 RCW to read as follows:

(1) The automatic fingerprint information system account is established in the custody of the state treasurer. Moneys in the account may be spent only for the purposes of purchasing or leasing automatic fingerprint information systems after appropriation by the legislature.

(2) Any moneys received by the state from bureau of justice assistance grants shall be deposited in the automatic fingerprint information system account if not inconsistent with the terms of the grant.

NEW SECTION. Sec. 3. The sum of twenty-five thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, to the state patrol for the purposes of section 1 of this act.

Passed the Senate February 15, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 197

[Engrossed Substitute Senate Bill No. 4722]
CONTRACTOR REGISTRATION

AN ACT Relating to registration of contractors; amending RCW 18.27.020, 18.27.210, 18.27.230, 18.27.240, 18.27.250, 18.27.270, 18.27.300, 18.27.310, 18.27.320, 18.27.340, 18.27.110, 19.30.040, 19.30.081, 19.30.160, and 19.30.170; adding new sections to chapter 18.27 RCW; adding a new section to chapter 19.30 RCW; repealing RCW 18.27.330; prescribing penalties; making an appropriation; and declaring an emergency.

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

Sec. 1. Section 2, chapter 77, Laws of 1963 as last amended by section 17, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.020 are each amended to read as follows:

(1) Every contractor shall register with the department.

(2) It is a misdemeanor for any contractor having knowledge of the registration requirements of this chapter to:

(a) Offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended; or

(c) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(3) All misdemeanor actions under this chapter shall be prosecuted in the county where the infraction occurs.

Sec. 2. Section 2, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.210 are each amended to read as follows:

((An authorized representative of the department may)) The director shall appoint compliance inspectors to investigate alleged or apparent violations of this chapter. If the name of the contractor allegedly or apparently in violation of this chapter is not known, or if the name of the contractor does not appear on the latest list of registered contractors compiled under RCW 18.27.120(1), upon presentation of credentials, ((an authorized representative)) a compliance inspector of the department may inspect sites at which a contractor had bid or presently is working to determine whether the contractor is registered in accordance with this chapter. Upon request of the ((authorized representative)) compliance inspector of the department, a contractor or an employee of the contractor shall provide information identifying the contractor. If the employee of an unregistered contractor is cited by a compliance inspector, that employee is cited as the agent of the employer-contractor, and issuance of the infraction to the employee is notice to the employer-contractor that the contractor is in violation of this chapter. An employee who is cited by a compliance inspector shall not be liable

for any of the alleged violations contained in the citation unless the employee is also the contractor.

Sec. 3. Section 3, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.230 are each amended to read as follows:

The department may issue a notice of infraction if the department reasonably believes that the contractor required to be registered by this chapter has failed to do so. A notice of infraction issued under this section shall be personally served on the contractor named in the notice by ~~((an authorized representative of the department))~~ the department's compliance inspectors or service can be made by certified mail directed to the contractor named in the notice of infraction. If the contractor named in the notice of infraction is a firm or corporation, the notice may be personally served on any employee of the firm or corporation. If a notice of infraction is personally served upon an employee of a firm or corporation, the department shall within four days of service send a copy of the notice by certified mail to the contractor if the department is able to obtain the contractor's address.

Sec. 4. Section 5, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.240 are each amended to read as follows:

~~((f))~~ The form of the notice of infraction issued under this chapter ~~((shall be prescribed by the supreme court following consultation with the department. To the extent practicable, the notice of infraction issued under this chapter shall conform to the notice of traffic infraction prescribed by the supreme court pursuant to RCW 46.63.060.~~

~~(2) The notice of infraction))~~ shall include the following:

~~((a))~~ (1) A statement that the notice represents a determination that the infraction has been committed by the contractor named in the notice and that the determination shall be final unless contested as provided in this chapter;

~~((b))~~ (2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

~~((c))~~ (3) A statement of the specific ~~((infraction for))~~ violation which ~~((the notice was issued))~~ necessitated issuance of the infraction;

~~((d))~~ (4) A statement ~~((that a one hundred dollar monetary penalty has been established for each infraction))~~ of penalty involved if the infraction is established;

~~((e))~~ (5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

~~((f))~~ (6) A statement that at any hearing to contest the ~~((determination))~~ notice of infraction the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the contractor may subpoena witnesses, including the ~~((authorized representative))~~ compliance inspector of the department who issued and served the notice of infraction;

~~((g))~~ (7) A statement, which the person who has been served with the notice of infraction shall sign, that the contractor promises to respond to the notice of infraction in one of the ways provided in this chapter;

~~((h))~~ (8) A statement that refusal to sign the infraction as directed in subsection ~~((2)(g))~~ (7) of this section is a misdemeanor and may be punished by a fine or imprisonment in jail; and

~~((i))~~ (9) A statement that a contractor's failure to respond to a notice of infraction as promised is a misdemeanor and may be punished by a fine or imprisonment in jail.

Sec. 5. Section 4, chapter 2, Laws of 1983 1st ex. sess. and RCW 18-27.250 are each amended to read as follows:

A violation designated as an infraction under this chapter shall be heard and determined by ~~((a district court. A notice of infraction shall be filed in the district court district in which the infraction is alleged to have occurred. If a notice of infraction is filed in a court which is not the proper venue, the notice shall be dismissed without prejudice on motion of either party))~~ an administrative law judge of the office of administrative hearings. If a party desires to contest the notice of infraction, the party shall file a notice of appeal with the department, within twenty days of issuance of the infraction. The administrative law judge shall conduct hearings in these cases at locations in the county where the infraction occurred.

Sec. 6. Section 7, chapter 2, Laws of 1983 1st ex. sess. and RCW 18-27.270 are each amended to read as follows:

(1) A contractor who ~~((receives a notice of infraction shall respond to the notice as provided in this section within fourteen days of the date the notice was served))~~ is issued a notice of infraction shall respond within twenty days of the date of issuance of the notice of infraction.

(2) If the contractor named in the notice of infraction does not ~~((want to contest the determination, the contractor shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department))~~ elect to contest the notice of infraction, then the contractor shall pay to the department, by check or money order, the amount of the penalty prescribed for the infraction. When a response which does not contest the notice of infraction is received by the department with the appropriate penalty, the department shall make the appropriate entry in its records.

(3) If the contractor named in the notice of infraction ~~((wants to contest the determination, the contractor shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either~~

~~by mail or in person, to the court specified on the notice. The court shall notify the contractor in writing of the time, place, and date of the hearing. The date of the hearing shall not be sooner than fourteen days from the date of the notice of hearing, except by agreement of the parties)) elects to contest the notice of infraction, the contractor shall respond by filing an answer of protest with the department specifying the grounds of protest.~~

(4) If any contractor issued a notice of infraction((:

(a) ~~Fails to respond to the notice of infraction as provided in subsection (2) of this section; or~~

(b) ~~Fails to appear at a hearing requested pursuant to subsection (3) of this section;~~

~~the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and shall notify the department of the failure of the contractor to respond to the notice of infraction or to appear at a requested hearing.~~

~~(5) An order entered by the court under subsection (4)(b) of this section may, for good cause shown and upon such terms as the court deems just, be set aside for the same grounds a default judgment may be set aside in civil actions in courts of limited jurisdiction)) fails to respond within the prescribed response period, the contractor shall be guilty of a misdemeanor and prosecuted in the county where the infraction occurred.~~

~~(5) After final determination by an administrative law judge that an infraction has been committed, a contractor who fails to pay a monetary penalty within thirty days, that is not waived, reduced, or suspended pursuant to RCW 18.27.340(2), and who fails to file an appeal pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor and be prosecuted in the county where the infraction occurred.~~

~~(6) A contractor who fails to pay a monetary penalty within thirty days after exhausting appellate remedies pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor and be prosecuted in the county where the infraction occurred.~~

Sec. 7. Section 8, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.300 are each amended to read as follows:

A contractor subject to proceedings under this chapter may appear or be represented by counsel. The department shall be represented by the attorney general in ~~((any proceeding))~~ administrative proceedings and any subsequent appeals under this chapter.

Sec. 8. Section 9, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.310 are each amended to read as follows:

(1) ~~((A hearing held to contest the determination that an infraction has been committed shall be without a jury.~~

(2) ~~The court may consider the notice of infraction and any sworn statement submitted by the department's authorized representative who is sued and served the notice in lieu of his or her personal appearance at the~~

hearing. ~~The contractor named in the notice may subpoena witnesses, including the authorized representative who issued and served the notice, and has the right to present evidence and examine witnesses present in court.~~

~~(3))~~ The administrative law judge shall conduct contractors' notice of infraction cases pursuant to chapter 34.04 RCW.

(2) The burden of proof is on the department to establish the commission of the infraction by a preponderance of the evidence. The notice of infraction shall be dismissed if the defendant establishes that, at the time the notice was issued, the defendant was registered by the department or was exempt from registration.

~~((4))~~ (3) After consideration of the evidence and argument, the ~~((court))~~ administrative law judge shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered ~~((in the court's records))~~ in the record of the proceedings. If it has been established that the infraction was committed, ~~((an appropriate order shall be entered in the court's records))~~ the administrative law judge shall issue findings of fact and conclusions of law in its decision and order determining whether the infraction was committed.

~~((5))~~ (4) An appeal from the ~~((court's))~~ administrative law judge's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure.

Sec. 9. Section 13, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.320 are each amended to read as follows:

The ~~((court))~~ administrative law judge shall dismiss the notice of infraction at any time upon written notification from the department that the contractor named in the notice of infraction was registered at the time the notice of infraction was issued.

Sec. 10. Section 15, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.340 are each amended to read as follows:

(1) A contractor found to have committed an infraction under RCW 18.27.200 shall be assessed a monetary penalty of ~~((one hundred dollars))~~ not less than two hundred dollars and not more than three thousand dollars.

(2) The ~~((court))~~ administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction only upon a showing of good cause that the penalty would be unduly burdensome to the contractor.

(3) Monetary penalties collected under this chapter shall be ~~((remitted as provided in chapter 3.62 RCW))~~ deposited in the general fund.

NEW SECTION. Sec. 11. A new section is added to chapter 18.27 RCW to read as follows:

The consumers of this state have a right to be protected from unfair or deceptive acts or practices when they enter into contracts with contractors. The fact that a contractor is found to have committed a misdemeanor or infraction under this chapter shall be deemed to affect the public interest and shall constitute a violation of chapter 19.80 RCW. The surety bond shall not be liable for monetary penalties or violations of chapter 19.86 RCW.

NEW SECTION. Sec. 12. A new section is added to chapter 18.27 RCW to read as follows:

The director shall adopt rules in compliance with chapter 34.04 RCW to effect the purposes of this chapter.

NEW SECTION. Sec. 13. Section 14, chapter 2, Laws of 1983 1st ex. sess. and RCW 18.27.330 are each repealed.

Sec. 14. Section 4, chapter 126, Laws of 1967 and RCW 18.27.110 are each amended to read as follows:

No city, town or county shall issue a construction building permit for work which is to be done by any contractor required to be registered under chapter 77, Laws of 1963 and chapter 18.27 RCW without ((proof)) verification that such contractor is currently registered as required by law. When such verification is made, nothing contained in this section is intended to be, nor shall be construed to create, or form the basis for any liability under this chapter on the part of any city, town or county, or its officers, employees or agents.

Sec. 15. Section 4, chapter 392, Laws of 1955 as amended by section 4, chapter 280, Laws of 1985 and RCW 19.30.040 are each amended to read as follows:

(1) The director shall require the deposit of a surety bond by any person acting as a farm labor contractor under this chapter to insure compliance with the provisions of this chapter. Such bond shall be in an amount specified by the director in accordance with such criteria as the director adopts by rule but shall not be less than five thousand dollars. The bond shall be payable to the state of Washington and shall be conditioned ((that the contractor will comply with this chapter and will pay all sums legally owing to any person recruited, solicited, employed, supplied, or hired by the contractor, or the contractor's agent or subcontractor, and will pay all damages arising out of the violation of any provision of this chapter, or false statements or misrepresentations made in the procurement of the contractor's license)) on payment in full of all sums legally due on wage claims of employees under this chapter and RCW 49.52.050 et seq. The aggregate liability of the surety upon such bond for all claims which may arise thereunder shall not exceed the face amount of the bond.

(2) The amount of the bond may be raised or additional security required by the director, upon his or her own motion or upon petition to the

director by any person, when it is shown that the security or bond is insufficient to satisfy the contractor's potential liability for the licensed period.

(3) No surety insurer may provide any bond, undertaking, recognition, or other obligation for the purpose of securing or guaranteeing any act, duty, or obligation, or the refraining from any act with respect to a contract using the services of a farm labor contractor unless the farm labor contractor has made application for or has a valid license issued under RCW 19.30.030 at the time of issuance of the bond, undertaking, recognition, or other obligation.

(4) ~~((During the period for which a bond is executed, the bond may not be canceled or otherwise terminated, unless alternative security arrangements are approved by the director))~~ The bond is written for a one-year term and may be renewed or extended by continuation certification at the option of the surety.

(5) In lieu of the surety bond required by this section, the contractor may file with the director a deposit consisting of cash or other security acceptable to the director. The deposit shall not be less than five thousand dollars in value. The security deposited with the director in lieu of the surety bond shall be returned to the contractor at the expiration of three years after the farm labor contractor's license has expired or been revoked if no legal action has been instituted against the contractor or on the security deposit at the expiration of the three years.

(6) If a contractor has deposited a bond with the director and has failed to comply with the conditions of the bond as provided by this section, and has departed from this state, service may be made upon the surety as prescribed in RCW 4.28.090.

Sec. 16. Section 8, chapter 280, Laws of 1985 and RCW 19.30.081 are each amended to read as follows:

Farm labor contractors may hold either a one-year license or a two-year license, at the director's discretion.

The one-year license shall run to and include the 31st day of December next following the date thereof unless sooner revoked by the director. A license may be renewed each year upon the payment of the annual license fee, but the director shall require that a new application ~~((and a renewed bond))~~ be submitted and that the contractor have a bond in full force and effect.

The two-year license shall run to and include the 31st day of December of the year following the year of issuance unless sooner revoked by the director. This license may be renewed every two years under the same terms as the one-year license, except that a farm labor contractor possessing a two-year license shall ~~((renew his or her bond each year))~~ have a bond in full force and effect, and file an application on which he or she shall disclose all information required by RCW 19.30.030 (1)(b), (4), and (7).

Sec. 17. Section 15, chapter 280, Laws of 1985 and RCW 19.30.160 are each amended to read as follows:

(1) In addition to any criminal penalty imposed under RCW 19.30.150, the director may assess against any person who violates this chapter, or any rule adopted under this chapter, a civil penalty of not more than one thousand dollars for each violation.

(2) The person shall be afforded the opportunity for a hearing, upon request to the director made within thirty days after the date of issuance of the notice of assessment. The hearing shall be conducted in accordance with chapter 34.04 RCW.

(3) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the director shall refer the matter to the state attorney general, who shall recover the amount assessed by action in the appropriate superior court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

~~((4) Without regard to any other remedy otherwise provided in this chapter, the director may bring suit upon the surety bond filed by the farm labor contractor on behalf of any worker whose rights under this chapter have been violated by the contractor. Such action may be commenced in any court of competent jurisdiction. In any such action, the notice and service requirements set forth in RCW 19.30.170(3) shall be complied with.))~~

Sec. 18. Section 16, chapter 280, Laws of 1985 and RCW 19.30.170 are each amended to read as follows:

(1) After filing a notice of a claim with the director, in addition to any other penalty provided by law, any person aggrieved by a violation of this chapter or any rule adopted under this chapter may bring suit in any court of competent jurisdiction of the county in which the claim arose, or in which either the plaintiff or respondent resides, without regard to the amount in controversy and without regard to exhaustion of any alternative administrative remedies provided in this chapter. No such action may be commenced later than three years after the date of the violation giving rise to the right of action. In any such action the court may award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees at trial and appeal.

(2) In any action under subsection (1) of this section, if the court finds that the respondent has violated this chapter or any rule adopted under this chapter, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of five hundred dollars per plaintiff per violation, whichever is greater, or other equitable relief.

~~((3) Without regard to any other remedy otherwise provided in this chapter, any person having a claim against the farm labor contractor for any violation of this chapter may bring suit upon the surety bond or security~~

~~deposit filed by the contractor pursuant to RCW 19.30.040, in any court of competent jurisdiction of the county in which the claim arose, or in which either the claimant or contractor resides. An action upon the bond or security deposit shall be commenced by serving and filing the complaint within three years from the date of expiration or cancellation of the bond, or in the case of a security deposit, within three years of the date of the expiration or revocation of the license. A copy of the complaint in any such action shall be served upon the director at the time of commencement of the action and the director shall maintain a record, available for public inspection, of all suits so commenced. Such service shall constitute service on the farm labor contractor and the surety for suit upon the bond and the director shall transmit the complaint or a copy thereof to the contractor at the address listed in his or her application and to the surety within forty-eight hours after it has been received. The surety upon the bond may, upon notice to the director and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated. A claimant against the bond or security deposit shall be entitled to damages under subsection (2) of this section. If the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, the claims shall be satisfied from the bond in the following order:~~

- ~~(a) Wages, including employee benefits;~~
- ~~(b) Damages imposed under subsection (2) of this section;~~
- ~~(c) Any costs and attorney's fees claimant may be entitled to recover.~~

~~If any final judgment impairs the liability of the surety upon the bond so furnished so that there is not in effect a bond undertaking in the full amount prescribed by the director, the director shall suspend the license of such contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims has been furnished. If such bond becomes fully impaired, a new bond must be furnished.~~

~~If the farm labor contractor has filed other security with the director in lieu of a surety bond, any person having an unsatisfied final judgment against the contractor for any violation of this chapter may execute upon the security deposit held by the director by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the director. Upon the receipt of service of such certified copy, the director shall pay or order paid from the deposit, through the registry of the court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the director, but the director shall have no liability for payment in excess of the amount of the deposit:))~~

NEW SECTION. Sec. 19. A new section is added to chapter 19.30 RCW to read as follows:

(1) Any person, having a claim for wages pursuant to this act or RCW 49.52.050 et seq. may bring suit upon the surety bond or security deposit filed by the contractor pursuant to RCW 19.30.040, in any court of competent jurisdiction of the county in which the claim arose, or in which either the claimant or contractor resides: PROVIDED, That the right of action shall not be included in any suit or action against the farm labor contractor but must be exercised independently after first procuring a judgment, decree or other form of adequate proof of liability established after notice and hearing under RCW 19.30.160. The filing of such an action against the farm labor contractor tolls the three-year statute of limitations referred to in RCW 19.30.170.

(2) The right of action is assignable in the name of the director or any other person, and must be included with an assignment of a wage claim, any other appropriate claim, or of a judgment thereon.

(3) An action upon the bond or security deposit shall be commenced by serving and filing the complaint within three years from the date of expiration or cancellation of the bond, or in the case of a security deposit, within three years of the date of expiration or revocation of the license.

(4) A copy of the complaint in any such action shall be served upon the director at the time of commencement of the action and the director shall maintain a record, available for public inspection, of all suits so commenced. Such service shall constitute service on the farm labor contractor and the surety for suit upon the bond and the director shall transmit the complaint or a copy thereof to the contractor at the address listed in his or her application and to the surety within forty-eight hours after it has been received.

(5) The surety upon the bond may, upon notice to the director and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated.

(6) If the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, the claims shall be satisfied from the bond in the order that judgment was rendered.

(7) If any final judgment impairs the liability of the surety upon the bond so furnished so that there is not in effect a bond undertaking in the full amount prescribed by the director, the director shall suspend the license of such contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims has been furnished. If such bond becomes fully impaired, a new bond must be furnished.

(8) If the farm labor contractor has filed other security with the director in lieu of a surety bond, any person having an unsatisfied final judgment against the contractor for any violation of this chapter may execute upon the security deposit held by the director by serving a certified copy of the

unsatisfied final judgment by registered or certified mail upon the director. Upon the receipt of service of such certified copy, the director shall pay or order paid from the deposit, through the registry of the court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the director, but the director shall have no liability for payment in excess of the amount of the deposit.

NEW SECTION. Sec. 20. There is appropriated from the general fund to the department of labor and industries for the biennium ending June 30, 1987, the sum of forty-five thousand dollars, or so much thereof as may be necessary, to carry out the purposes of sections 1 through 14 of this act.

NEW SECTION. Sec. 21. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 9, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 198

[Substitute Senate Bill No. 4741]

COMMERCIAL FISHING LICENSES—LANDING REQUIREMENTS, FOREIGN GOVERNMENT INTERVENTION—SALMON LICENSE REVERSION— WHITING FISHERY—GEAR AND LICENSING DISTRICTS

AN ACT Relating to commercial fishing licenses; amending RCW 75.30.050 and 75.28-.014; and adding new sections to chapter 75.30 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 75.30 RCW to read as follows:

The director of the department of fisheries shall waive the landing and other permit requirements under RCW 75.30.120 if such requirements were not fulfilled by the license holder due to procedures initiated by a foreign government.

This section shall expire on December 31, 1986.

NEW SECTION. Sec. 2. A new section is added to chapter 75.30 RCW to read as follows:

Any commercial salmon fishing license issued under RCW 75.28.110 or salmon delivery permit issued under RCW 75.28.113 shall revert to the department when any government confiscates and sells the vessel to which the license or permit was issued. Upon application of the person named on

the license or permit and the approval of the director, the department shall transfer the license or permit to the original owner. Application for transfer of the license or permit must be made within the calendar year in which the vessel was licensed.

NEW SECTION. Sec. 3. A new section is added to chapter 75.30 RCW to read as follows:

The legislature finds that maintaining a commercial whiting fishery in Puget Sound affects the public welfare. Excessive fishing for Puget Sound whiting, especially at the time of spawning, severely affects the abundance of whiting. The legislature further finds that as a result of increases in the number of vessels fishing for whiting, the amount of gear used in fishing, and the limited whiting resource, it is proper and necessary to limit the number of vessels and amount of gear used in taking whiting in Puget Sound.

NEW SECTION. Sec. 4. A new section is added to chapter 75.30 RCW to read as follows:

Commercial Puget Sound whiting license endorsements issued under section 6 of this act shall be valid for the owner and the vessel for which the endorsement was issued. The endorsement may be transferred through gift, devise, bequest or descent to members of the immediate family which shall be limited to spouse, children or stepchildren. Only a natural person may possess an endorsement. The owner of the endorsement must be present on any vessel taking whiting under terms of the endorsement. In no instance may temporary permits be issued.

The director may adopt rules necessary to implement sections 3 through 6 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 75.30 RCW to read as follows:

To obtain a Puget Sound commercial whiting endorsement, the owner of the vessel must have delivered at least fifty thousand pounds of whiting during the period from January 1, 1981, through February 22, 1985 as verified by fish delivery tickets and must have possessed, on January 1, 1986, all equipment necessary to fish for whiting.

NEW SECTION. Sec. 6. A new section is added to chapter 75.30 RCW to read as follows:

In addition to any other license, a Puget Sound commercial whiting endorsement is required to take whiting in the waters of marine fish-shell fish management and catch reporting areas 24B, Port Susan; 24C, Saratoga Passage; 26A, Possession Sound; or any other area designated by the department. An annual endorsement fee is two hundred dollars for residents and four hundred dollars for nonresidents. The license shall be affixed to the licensed vessel.

Sec. 7. Section 5, chapter 106, Laws of 1977 ex. sess. as amended by section 138, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.30.050 are each amended to read as follows:

(1) The director shall appoint three-member advisory review boards to hear cases as provided in RCW 75.30.060. Members shall be from:

(a) The salmon charter boat fishing industry in cases involving salmon charter boat licenses or angler permits;

(b) The commercial salmon fishing industry in cases involving commercial salmon licenses;

(c) The commercial crab fishing industry in cases involving Puget Sound crab license endorsements; ~~((and))~~

(d) The commercial herring fishery in cases involving herring validations; and

(e) The commercial Puget Sound whiting fishery in cases involving Puget Sound whiting license endorsements.

(2) Members shall serve at the discretion of the director and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

Sec. 8. Section 3, chapter 171, Laws of 1957 as last amended by section 103, chapter 46, Laws of 1983 1st ex. sess. and RCW 75.28.014 are each amended to read as follows:

(1) The department may establish by rule license application deadlines for types of gear and licensing districts. An applicant for a commercial salmon fishing license shall submit a license application in accordance with this subsection.

(a) If an application is postmarked or personally delivered to the department in Olympia by ~~((April 15th of the license year))~~ the application deadline, it shall be accompanied by the prescribed license fee.

(b) If an application is postmarked or personally delivered to the department in Olympia after ~~((April 15th of the license year))~~ the application deadline, it shall be accompanied by the prescribed license fee and a late application fee of two hundred dollars.

(2) Columbia River smelt license applications accompanied by the license fee shall be made in person or postmarked by January 10 of the license year.

Passed the Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 199

[Senate Bill No. 4891]

MOTOR VEHICLE DEALERS—ESTABLISHED PLACE OF BUSINESS

AN ACT Relating to motor vehicle dealers; and adding a new section to chapter 46.70 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.70 RCW to read as follows:

The director may by rule waive any requirements pertaining to a vehicle dealer's established place of business if such waiver both serves the purposes of this chapter and is necessary due to unique circumstances such as a location divided by a public street or a highly specialized type of business.

Passed the Senate March 9, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 200

[Engrossed Senate Bill No. 4927]

INDUSTRIAL INSURANCE—MEDICAL, DENTAL, VOCATIONAL, AND OTHER HEALTH SERVICES—REGULATORY AND INSPECTION PROGRAMS

AN ACT Relating to medical aid; amending RCW 51.04.030, 51.04.040, 51.52.050, and 51.52.060; adding new sections to chapter 51.36 RCW; adding new sections to chapter 51.48 RCW; adding a new section to chapter 51.08 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 51.36 RCW to read as follows:

The legislature finds and declares it to be in the public interest of the residents of the state of Washington that a proper regulatory and inspection program be instituted in connection with the provision of medical, dental, vocational, and other health services to industrially injured workers pursuant to Title 51 RCW. In order to effectively accomplish such purpose and to assure that the industrially injured worker receives such services as are paid for by the state of Washington, the acceptance by the industrially injured worker of such services, and the request by a provider of services for reimbursement for providing such services, shall authorize the director of the department of labor and industries or the director's authorized representative to inspect and audit all records in connection with the provision of such services.

NEW SECTION. Sec. 2. A new section is added to chapter 51.36 RCW to read as follows:

The director of the department of labor and industries or the director's authorized representative shall have the authority to:

(1) Conduct audits and investigations of providers of medical, dental, vocational, and other health services furnished to industrially injured workers pursuant to Title 51 RCW. In the conduct of such audits or investigations, the director or the director's authorized representatives may examine all records, or portions thereof, including patient records, for which services were rendered by a health services provider and reimbursed by the department, notwithstanding the provisions of any other statute which may make or purport to make such records privileged or confidential: **PROVIDED**, That no original patient records shall be removed from the premises of the health services provider, and that the disclosure of any records or information obtained under authority of this section by the department of labor and industries is prohibited and constitutes a violation of RCW 42.22.040, unless such disclosure is directly connected to the official duties of the department: **AND PROVIDED FURTHER**, That the disclosure of patient information as required under this section shall not subject any physician or other health services provider to any liability for breach of any confidential relationships between the provider and the patient: **AND PROVIDED FURTHER**, That the director or the director's authorized representative shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation, or proceedings;

(2) Approve or deny applications to participate as a provider of services furnished to industrially injured workers pursuant to Title 51 RCW; and

(3) Terminate or suspend eligibility to participate as a provider of services furnished to industrially injured workers pursuant to Title 51 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 51.48 RCW to read as follows:

Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an industrially injured recipient of health services, that, without intent to violate this chapter, obtains payments under Title 51 RCW to which such person or entity is not entitled, shall be liable for: (1) Any excess payments received; and (2) interest on the amount of excess payments at the rate of one percent each month for the period from the date upon which payment was made to the date upon which repayment is made to the state.

NEW SECTION. Sec. 4. A new section is added to chapter 51.48 RCW to read as follows:

(1) No person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an industrially injured recipient of health service, shall, on behalf of himself or others, obtain or

attempt to obtain payments under this chapter in a greater amount than that to which entitled by means of:

(a) A wilful false statement;

(b) Wilful misrepresentation, or by concealment of any material facts;

or

(c) Other fraudulent scheme or device, including, but not limited to:

(i) Billing for services, drugs, supplies, or equipment that were not furnished, of lower quality, or a substitution or misrepresentation of items billed; or

(ii) Repeated billing for purportedly covered items, which were not in fact so covered.

(2) Any person, firm, corporation, partnership, association, agency, institution, or other legal entity knowingly violating any of the provisions of subsection (1) of this section shall be liable for repayment of any excess payments received, plus interest on the amount of the excess benefits or payments at the rate of one percent each month for the period from the date upon which payment was made to the date upon which repayment is made to the state. Such person or other entity shall further, in addition to any other penalties provided by law, be subject to civil penalties. The director of the department of labor and industries may assess civil penalties in an amount not to exceed the greater of one thousand dollars or three times the amount of such excess benefits or payments: **PROVIDED**, That these civil penalties shall not apply to any acts or omissions occurring prior to the effective date of this act.

(3) A criminal action need not be brought against a person, firm, corporation, partnership, association, agency, institution, or other legal entity for that person or entity to be civilly liable under this section.

(4) Civil penalties shall be deposited in the general fund upon their receipt.

NEW SECTION. Sec. 5. A new section is added to chapter 51.48 RCW to read as follows:

Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, that:

(1) Knowingly makes or causes to be made any false statement or representation of a material fact in any application for any payment under this title; or

(2) At any time knowingly makes or causes to be made any false statement or representation of a material fact for use in determining rights to such payment, or knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact in connection with such application or payment; or

(3) Having knowledge of the occurrence of any event affecting (a) the initial or continued right to any payment, or (b) the initial or continued right to any such payment of any other individual in whose behalf he or she

has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized;

shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

NEW SECTION. Sec. 6. A new section is added to chapter 51.48 RCW to read as follows:

(1) Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, that solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind:

(a) In return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this chapter; or

(b) In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter;

shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(2) Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, that offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:

(a) To refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under this chapter; or

(b) To purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter;

shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(3) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter; and

(b) Any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(4) Subsections (1) and (2) of this section, if applicable to the conduct involved, shall supersede the criminal provisions of chapter 19.68 RCW, but shall not preclude administrative proceedings authorized by chapter 19.68 RCW.

NEW SECTION. Sec. 7. A new section is added to chapter 51.48 RCW to read as follows:

The director of the department of labor and industries may by rule require that any application, statement, or form filled out by any health services provider under this title shall contain or be verified by a written statement that it is made under the penalties of perjury and such declaration shall be in lieu of any oath otherwise required, and each such paper shall in such event so state. The making or subscribing of any such papers or forms containing any false or misleading information may be prosecuted and punished under chapter 9A.72 RCW.

Sec. 8. Section 1, chapter 14, Laws of 1980 and RCW 51.04.030 are each amended to read as follows:

The director shall, through the division of industrial insurance, supervise the providing of prompt and efficient care and treatment, including care provided by physicians' assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and promulgate and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That, the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost effective payment levels or rates are obtained by the department: and PROVIDED FURTHER, That the department may enter into volume based contracts for services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

The director shall make and, from time to time, change as may be, and promulgate a fee bill of the maximum charges to be made by any physician, surgeon, hospital, druggist, physicians' assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. No service covered under this title shall be charged or paid at a rate or rates exceeding those specified in such fee bill, and no contract providing for greater fees shall be valid as to the excess.

The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall

approve and pay those which conform to the promulgated rules, regulations, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules and regulations promulgated under it.

Sec. 9. Section 51.04.040, chapter 23, Laws of 1961 as amended by section 1, chapter 323, Laws of 1977 ex. sess. and RCW 51.04.040 are each amended to read as follows:

The director shall have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department, any billing submitted to the department, or the assessment or collection of premiums. The superior court shall have the power to enforce any such subpoena by proper proceedings.

Sec. 10. Section 51.52.050, chapter 23, Laws of 1961 as last amended by section 9, chapter 315, Laws of 1985 and RCW 51.52.050 are each amended to read as follows:

Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia: PROVIDED, That a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

Sec. 11. Section 51.52.060, chapter 23, Laws of 1961 as last amended by section 76, chapter 350, Laws of 1977 ex. sess. and RCW 51.52.060 are each amended to read as follows:

Any worker, beneficiary, employer, or other person aggrieved by an order, decision, or award of the department must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within sixty days from the day on which such copy of such order, decision, or award was communicated to such person, a notice of appeal to the board: PROVIDED, That a health services provider or other person aggrieved by a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within twenty days from the day on which such copy of such order or decision was communicated to the health services provider upon whom the department order or decision was served, a notice of appeal to the board. Within ten days of the date on which an appeal has been granted by the board, the board shall notify the other interested parties thereto of the receipt thereof and shall forward a copy of said notice of appeal to such other interested parties. Within twenty days of the receipt of such notice of the board, the worker or the employer may file with the board a cross-appeal from the order of the department from which the original appeal was taken: **PROVIDED, That nothing contained in this section shall be deemed to change, alter or modify the practice or procedure of the department for the payment of awards pending appeal: AND PROVIDED, That failure to file notice of appeal with both the board and the department shall not be ground for denying the appeal if the notice of appeal is filed with either the board or the department: AND PROVIDED, That, if within the time limited for filing a notice of appeal to the board from an order, decision, or award of the department, the department shall direct the submission of further evidence or the investigation of any further fact, the time for filing such notice of appeal shall not commence to run until such person shall have been advised in writing of the final decision of the department in the matter: PROVIDED, FURTHER, That in the event the department shall direct the submission of further evidence or the investigation of any further fact, as above provided, the department shall render a final order, decision, or award within ninety days from the date such further submission of evidence or investigation of further fact is ordered which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days: PROVIDED, FURTHER, That the department, either within the time limited for appeal, or within thirty days after receiving a notice of appeal, may modify, reverse or change any order, decision, or award, or may hold any such order, decision, or award in abeyance for a period of ninety days which time period**

may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days pending further investigation in light of the allegations of the notice of appeal, and the board shall thereupon deny the appeal, without prejudice to the appellant's right to appeal from any subsequent determinative order issued by the department.

NEW SECTION. Sec. 12. A new section is added to chapter 51.08 RCW to read as follows:

"Health services provider" or "provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker.

NEW SECTION. Sec. 13. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 10, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 201

[Substitute Senate Bill No. 5026]

FARMERS—HAZARDOUS WASTES—DEPARTMENT OF ECOLOGY AND ADVISORY GROUP TO STUDY

AN ACT Relating to hazardous waste; creating a new section; and making an appropriation.

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

NEW SECTION. Sec. 1. Currently farmers have no appropriate economically feasible means of legally disposing of small amounts of hazardous waste, including pesticides with uses canceled or restricted after purchase.

The department of ecology shall prepare and submit a report to the appropriate standing committees of the legislature no later than January 1, 1987, which describes and assesses the nature of this problem in the state. The department, in preparing this report, shall consult with an advisory group including representatives from the department of agriculture, a public interest group, an environmental organization, and a public health organization and three representatives from agriculture organizations. The report shall include the following information:

(1) A survey of the amounts and kinds of hazardous wastes to be disposed of by farmers. The department of ecology shall work with the department of agriculture and state-licensed pesticide consultants and dealers,

Washington State University, and the cooperative extension in survey work conducted to carry out this section.

(2) A study of the possibilities for recycling, treatment, or disposal of these wastes in cost-effective ways that protect the environment and public health.

(3) Liability for the recycling, treatment, or disposal of the wastes.

(4) A suggested program to be supervised by the department of ecology for collection of small quantities of hazardous waste from farmers, these wastes to be recycled, treated, or disposed of in an environmentally safe manner. Planning for this program shall include strategies for education of farmers and the public about hazardous waste disposal and the program, and a program of notification. The department shall estimate costs and suggest means of funding.

NEW SECTION. Sec. 2. There is appropriated from the general fund to the department of ecology, for the biennium ending June 30, 1987, the sum of forty-nine thousand five hundred dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

Passed the Senate March 10, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 202

[Engrossed Substitute House Bill No. 1355]

HORSES—MARKETING OF WASHINGTON-BRED HORSES

AN ACT Relating to the department of agriculture; amending RCW 43.23.035, 82.08-.0293, and 82.12.0293; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; and making an appropriation.

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

Sec. 1. Section 3, chapter 159, Laws of 1985 and RCW 43.23.035 are each amended to read as follows:

The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

(1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;

(2) To collect, prepare, and analyze foreign and domestic market data;

(3) To establish a program to promote and assist in the marketing of Washington-bred horses: PROVIDED, That the department shall present a

proposal to the legislature no later than December 1, 1986, that provides for the elimination of all state funding for the program after June 30, 1989;

(4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

((4)) (5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;

((5)) (6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

((6)) (7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

((7)) (8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

((8)) (9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

((9)) (10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

((10)) (11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

((11)) (12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

((12)) (13) To develop a coordinated marketing program with the department of ~~(commerce)~~ trade and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming.

NEW SECTION. Sec. 2. The sum of forty-five thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the department of agriculture to implement section 1(3) of this act.

***NEW SECTION.** Sec. 3. *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 feed consumed by livestock at a public livestock market.

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

***NEW SECTION. Sec. 4.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter shall not apply with respect to the use of feed consumed by livestock at a public livestock market.

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

***Sec. 5. Section 33, chapter 35, Laws of 1982 1st ex. sess. as amended by section 1, chapter 104, Laws of 1985 and RCW 82.08.0293 are each amended to read as follows:**

(1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products including livestock sold for personal consumption, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this subsection shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals (i) under a state administered nutrition program for the aged as provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6) or (ii) which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW, or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

(2) Subsection (1) of this section notwithstanding, the retail sale of food products is subject to sales tax under RCW 82.08.020 if the food products are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

This subsection does not apply to hot prepared food products, other than food products which are heated after they have been dispensed from the vending machine.

For tax collected under this subsection, the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

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

**Sec. 6. Section 34, chapter 35, Laws of 1982 1st ex. sess. as amended by section 2, chapter 104, Laws of 1985 and RCW 82.12.0293 are each amended to read as follows:*

The provisions of this chapter shall not apply in respect to the use of food products for human consumption.

"Food products" include cereals and cereal products, oieomargarine, meat and meat products including livestock sold for personal consumption, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this paragraph shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals (i) under a state administered nutrition program for the aged as provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6) or (ii) which are provided to senior citizens, disabled persons, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW, or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such

products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

*Sec. 6 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 1, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1986.

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

"I am returning herewith, without my approval as to four sections, Substitute House Bill No. 1355, entitled:

"AN ACT Relating to the Department of Agriculture."

I am vetoing sections 3 and 4 because they duplicate language contained in Substitute Senate Bill No. 4769, sections 1 and 2.

I am vetoing sections 5 and 6 because they duplicate language contained in Substitute Senate Bill No. 4425 sections 1 and 2.

With the exception of Sections 3, 4, 5 and 6, the remainder of Substitute House Bill No. 1355 is approved."

CHAPTER 203

[Engrossed Substitute Senate Bill No. 5044]

HORTICULTURE INSPECTION SERVICES—APPLE ADVERTISING
COMMISSION—PEST CONTROL—WAREHOUSE OPERATORS—GRAIN
DEALERS—ORGANIC FOOD, FISH PRODUCTS, CHRISTMAS TREES—
POPCORN—KOSHER FOOD—FLUID DAIRY PRODUCTS—RAPESEED—
AGRICULTURAL COMMODITY COMMISSIONS

AN ACT Relating to the department of agriculture; amending RCW 15.04.100, 15.17-.230, 15.24.070, 15.58.220, 15.58.240, 16.38.060, 17.21.090, 17.21.120, 17.21.128, 17.21.130, 17.21.220, 17.21.305, 22.09.050, 22.09.055, 15.66.010, 69.04.398, 43.23.035, and 15.04.200; reenacting and amending RCW 15.65.020; adding a new section to chapter 15.65 RCW; adding a new section to chapter 15.66 RCW; adding a new section to chapter 69.04 RCW; adding a new section to chapter 15.36 RCW; creating a new section; prescribing penalties; and declaring an emergency.

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

Sec. 1. Section 15.04.100, chapter 11, Laws of 1961 as amended by section 1, chapter 76, Laws of 1969 ex. sess. and RCW 15.04.100 are each amended to read as follows:

The director shall establish a horticulture inspection trust fund to be derived from horticulture inspection district funds. The director shall adjust district payments so that the balance in the trust fund shall not exceed ~~((seventy-five))~~ three hundred thousand dollars. The director is authorized to make payments from the trust fund to:

(1) Pay fees and expenses provided in the inspection agreement between the state department of agriculture and the agricultural marketing service of the United States department of agriculture;

(2) Pay portions of salaries of inspectors—at-large as provided under RCW 15.04.040;

(3) Assist horticulture inspection districts in temporary financial distress as result of less than normal production of horticultural commodities: PROVIDED, That districts receiving such assistance shall make repayment to the trust fund as district funds shall permit;

(4) Pay necessary administrative expenses for the ~~((division of plant industry))~~ commodity inspection division attributable to the supervision of the horticulture inspection services.

Sec. 2. Section 23, chapter 122, Laws of 1963 as last amended by section 1, chapter 7, Laws of 1975 1st ex. sess. and RCW 15.17.230 are each amended to read as follows:

For the purpose of this chapter the state shall be divided into not less than ~~((four))~~ three horticulture inspection districts to which the director may assign one or more inspectors—at-large who as a representative of the director shall supervise and administer regulatory and inspection affairs of the districts: PROVIDED, That for purposes of efficiency and economy the director may by rule promulgated in accordance with the Administrative Procedure Act establish or adjust district boundaries or abolish any district: PROVIDED, HOWEVER, That there shall be at least ~~((four))~~ three districts in existence at all times.

Sec. 3. Section 15.24.070, chapter 11, Laws of 1961 as amended by section 5, chapter 145, Laws of 1963 and RCW 15.24.070 are each amended to read as follows:

The Washington state apple advertising commission is hereby declared and created a corporate body. The powers and duties of the commission shall include the following:

(1) To elect a chairman and such other officers as it deems advisable; and to adopt, rescind, and amend rules, regulations, and orders for the exercise of its powers hereunder, which shall have the force and effect of the law when not inconsistent with existing laws;

(2) To administer and enforce the provisions of this chapter, and do all things reasonably necessary to effectuate the purposes of this chapter;

(3) To employ and at its pleasure discharge a manager, secretary, agents, attorneys, and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

(4) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this chapter;

(5) To investigate and prosecute violations hereof;

(6) To conduct scientific research to develop and discover the health, food, therapeutic, and dietetic value of apples and products thereof;

(7) To keep accurate record of all of its dealings, which shall be open to inspection and audit by the state auditor;

(8) To sue and be sued, adopt a corporate seal, and have all of the powers of a corporation; and

(9) To expend funds for commodity-related education, training, and leadership programs as the commission deems expedient.

Sec. 4. Section 22, chapter 190, Laws of 1971 ex. sess. as amended by section 20, chapter 297, Laws of 1981 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). No person shall act as a public pest control consultant on or after February 28, 1973 without first obtaining a nonfee license from the director (~~which~~). Public pest control consultant licenses shall expire on the ((third)) 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 federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or his duly authorized representative, and public operators licensed under RCW 17.21-.220 shall be exempt from this licensing provision.

Sec. 5. Section 24, chapter 190, Laws of 1971 ex. sess. 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 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 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 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.

Sec. 6. Section 6, chapter 100, Laws of 1969 and RCW 16.38.060 are each amended to read as follows:

The director may, following a public hearing, establish a schedule of fees for services performed in carrying out such diagnostic service program. All fees collected under this provision shall be retained by the director of agriculture to be spent only for carrying out the purposes of this chapter.

Sec. 7. Section 9, chapter 249, Laws of 1961 as last amended by section 2, chapter 191, Laws of 1971 ex. sess. and RCW 17.21.090 are each amended to read as follows:

The director shall not issue a pesticide applicator's license until the applicant, if he is the sole owner of the business, or if there is more than one owner, the person managing the business, has passed an examination to demonstrate to the director (1) his knowledge of how to apply pesticides under the classifications he has applied for, manually or with the various apparatuses that he may have applied for a license to operate under the provisions of this chapter, and (2) his knowledge of the nature and effect of pesticides he may apply manually or with such apparatuses under such classifications. ~~((The director may renew any applicant's license under the classification for which such applicant is licensed, subject to examination for new knowledge that may be required to apply pesticides manually or with apparatuses the applicant has been licensed to operate.))~~ The pesticide applicator's license shall expire on December 31 following issuance. The director shall charge an examination fee of five dollars 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.

Sec. 8. Section 12, chapter 249, Laws of 1961 as amended by section 7, chapter 177, Laws of 1967 and RCW 17.21.120 are each amended to read as follows:

The director shall not issue an operator's license before such applicant has passed an examination to demonstrate to the director (1) his ability to apply pesticides in the classifications he has applied for, manually or with the various apparatuses that he may have applied for a license to operate, and (2) his knowledge of the nature and effect of pesticides applied manually or used in such apparatuses under such classifications. ~~((The director may renew any applicant's license under the classification for which such applicant is licensed, subject to examination for new knowledge that may be required to apply pesticides manually or with apparatuses the applicant has been licensed to operate.))~~ The operator's license shall expire on December 31 following issuance. The director shall charge an examination fee of five dollars when an examination is necessary before a license may be issued and when application for such license and examination is made at other than a regularly scheduled examination date as provided for by the director.

Sec. 9. Section 9, chapter 92, Laws of 1979 and RCW 17.21.128 are each amended to read as follows:

The director may renew any (~~(private applicator's)~~) certification or (~~(private-commercial applicator's)~~) license issued under authority of this chapter under the classification for which such applicant is licensed or certified subject to (~~(demonstration of competency)~~) recertification standards as determined by the director or examination regarding new knowledge that may be required to apply pesticides (~~(manually or with apparatuses the applicant has been licensed to operate)~~).

Sec. 10. Section 13, chapter 249, Laws of 1961 and RCW 17.21.130 are each amended to read as follows:

Any license provided for in this chapter (~~(shall expire on December 31st following issuance unless it has been)~~) may be revoked or suspended (~~(prior thereto)~~) by the director for cause.

Sec. 11. Section 22, chapter 249, Laws of 1961 as last amended by section 24, chapter 297, Laws of 1981 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 (~~(operators on apparatuses used by such entities and which shall expire on the third December 31st from the date of issuance)~~) employees of a state agency, municipal corporation, public utility, or other government agency: AND PROVIDED FURTHER, That the jurisdictional health officer or his 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) 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. 12. Section 19, chapter 177, Laws of 1967 and RCW 17.21.305 are each amended to read as follows:

The provisions of this chapter requiring all structural pest control operators, exterminators and fumigators to license with the department shall not preclude a city of the first class with a population of one hundred thousand people or more, or the county in which it is situated, from also licensing structural pest control operators, exterminators and fumigators operating within the territorial confines of said city or county: PROVIDED, That when structural pest control operators, exterminators and fumigators are licensed by both ~~((such))~~ the city of the first class and the county in which ~~((such))~~ the city is situated, and there exists a joint county-city health department, then ~~((such))~~ the joint county-city health department may enforce the provisions of ~~((such))~~ the city and county as to the license requirements for ~~((said))~~ the structural pest control operators, exterminators and fumigators.

Sec. 13. Section 5, chapter 124, Laws of 1963 as last amended by section 22, chapter 305, Laws of 1983 and RCW 22.09.050 are each amended to read as follows:

Any application for a license to operate a warehouse shall be accompanied by a license fee of ~~((two))~~ four hundred dollars for a terminal warehouse, ~~((one hundred fifty))~~ three hundred dollars for a subterminal warehouse, and ~~((fifty))~~ one hundred dollars for a country warehouse. If a licensee operates more than one warehouse under one state license as provided for in RCW 22.09.030, the license fee shall be computed by multiplying the number of physically separated warehouses within the station by the applicable terminal, subterminal, or country warehouse license fee. If an application for renewal of a warehouse license or licenses is not received by the department prior to June 30th of any year, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a warehouseman subsequent to the expiration of his prior license.

Sec. 14. Section 23, chapter 305, Laws of 1983 and RCW 22.09.055 are each amended to read as follows:

An application for a license to operate as a grain dealer shall be accompanied by a license fee of ~~((one))~~ three hundred dollars unless the applicant is also a licensed warehouseman, in which case the fee for a grain dealer license shall be one hundred fifty dollars.

If an application for renewal of a grain dealer license is not received by the department before June 30th of any year, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a grain dealer after the expiration of his prior license.

Sec. 15. Section 2, chapter 256, Laws of 1961 as last amended by section 1, chapter 261, Laws of 1985 and by section 13, chapter 457, Laws of 1985 and RCW 15.65.020 are each reenacted and amended to read as follows:

The following terms are hereby defined:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative. The phrase "director or his designee" means the director unless, in the provisions of any marketing agreement or order, he has designated an administrator, board or other designee to act for him in the matter designated, in which case "director or his designee" means for such order or agreement the administrator, board or other person(s) so designated and not the director.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Marketing agreement" means an agreement entered into and issued by the director pursuant to this chapter.

(5) "Agricultural commodity" means any animal or any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable, or animal product, including, but not limited to, products qualifying as organic food products under chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 15.85.020 and other fish and fish products, either in its natural or processed state, including bees and honey and Christmas trees but not including timber or timber products. The director is hereby authorized to determine (on the basis of common usage and practice) what kinds, types or sub-types should be classed together as an agricultural commodity for the purposes of this chapter.

(6) "Production area" and "marketing area" means any area defined as such in any marketing order or agreement in accordance with RCW 15.65.350. "Affected area" means the marketing or production area so defined in such order, agreement or proposal.

(7) "Unit" of an agricultural commodity means a unit of volume, weight, quantity, or other measure in which such commodity is commonly measured. The director shall designate in each marketing order and agreement the unit to be used therein.

(8) "Affected unit" means in the case of marketing agreements and orders drawn on the basis of a production area, any unit of the commodity specified in or covered by such agreement or order which is produced in such area and sold or marketed or delivered for sale or marketing; and "affected unit" means, in the case of marketing agreements and orders drawn on the basis of marketing area, any unit of the commodity specified in or covered by such agreement or order which is stored in frozen condition or sold or marketed or delivered for sale or marketing within such marketing

area: PROVIDED, That in the case of marketing agreements "affected unit" shall include only those units which are produced by producers or handled by handlers who have assented to such agreement.

(9) "Affected commodity" means that part or portion of any agricultural commodity which is covered by or forms the subject matter of any marketing agreement or order or proposal, and includes all affected units thereof as herein defined and no others.

(10) "Producer" means any person engaged in the business of producing any agricultural commodity for market in commercial quantities. "Affected producer" means any producer of an affected commodity. "To produce" means to act as a producer. For the purposes of RCW 15.65.140 and 15.65.160 as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(11) "Handler" means any person who acts, either as principal, agent or otherwise, in processing, selling, marketing or distributing an agricultural commodity or storage of a frozen agricultural commodity which was not produced by him. "Handler" does not mean a common carrier used to transport an agricultural commodity. "Affected handler" means any handler of an affected commodity. "To handle" means to act as a handler.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to any agricultural commodity. A producer-handler shall be deemed to be a producer with respect to the agricultural commodities which he produces, and a handler with respect to the agricultural commodities which he handles, including those produced by himself.

(13) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of congress of the United States of February 18, 1922 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(14) "Member of a cooperative association" means any producer who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is a party to a marketing agreement with such cooperative association with respect to such product.

(15) "Producer marketing" or "marketed by producers" means any or all operations performed by any producer or cooperative association of producers in preparing for market and marketing, and shall include: (a) selling any agricultural commodity produced by such producer(s) to any handler; (b) delivering any such commodity or otherwise disposing of it for commercial purposes to or through any handler.

(16) "Commercial quantities" as applied to producers and/or production means such quantities per year (or other period of time) of an agricultural commodity as the director finds are not less than the minimum which a prudent man engaged in agricultural production would produce for the purpose of making such quantity of such commodity a substantial contribution to the economic operation of the farm on which such commodity is produced. "Commercial quantities" as applied to handlers and/or handling means such quantities per year (or other period of time) of an agricultural commodity or product thereof as the director finds are not less than the minimum which a prudent man engaged in such handling would handle for the purpose of making such quantity a substantial contribution to the handling operation in which such commodity or product thereof is so handled. In either case the director may in his discretion: (a) determine that substantial quantity is any amount above zero; and (b) apply the quantity so determined on a uniform rule applicable alike to all persons which he finds to be similarly situated.

(17) "Commodity board" means any board established pursuant to RCW 15.65.220. "Board" means any such commodity board unless a different board is expressly specified.

(18) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(19) "Section" means a section of this chapter unless some other statute is specifically mentioned. The present includes the past and future tenses, and the past or future the present. The masculine gender includes the feminine and neuter. The singular number includes the plural and the plural includes the singular.

(20) "Represented in a referendum" means that a written document evidencing approval or assent or disapproval or dissent is duly and timely filed with or mailed to the director by or on behalf of an affected producer and/or a volume of production of an affected commodity in a form which the director finds meets the requirements of this chapter.

(21) "Person" as used in this chapter shall mean any person, firm, association or corporation.

Sec. 16. Section 15.66.010, chapter 11, Laws of 1961 as last amended by section 14, chapter 457, Laws of 1985 and RCW 15.66.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or any qualified person or persons designated by the director of agriculture to act for him concerning some matter under this chapter.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Agricultural commodity" means any animal or any distinctive type of agricultural, horticultural, viticultural, vegetable, and/or animal product, including, but not limited to, products qualifying as organic food products under chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 15.85.020 and other fish and fish products, within its natural or processed state, including bees and honey and Christmas trees but not including timber or timber products. The director is authorized to determine what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this chapter.

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity. For the purposes of RCW 15.66.060, 15.66.090, and 15.66.120, as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Affected producer" means any producer of an affected commodity.

(7) "Affected commodity" means any agricultural commodity for which the director has established a list of producers pursuant to RCW 15.66.060.

(8) "Commodity commission" or "commission" means a commission formed to carry out the purposes of this chapter under a particular marketing order concerning an affected commodity.

(9) "Unit" means a unit of volume, quantity or other measure in which an agricultural commodity is commonly measured.

(10) "Unfair trade practice" means any practice which is unlawful or prohibited under the laws of the state of Washington including but not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.77, 19.80, 19.84, and 19.83 RCW, or any practice, whether concerning interstate or intrastate commerce that is unlawful under the provisions of the act of Congress of the United States, September 26, 1914, chapter 311, section 5, 38 U.S. Statutes at Large 719 as amended, known as the "Federal Trade Commission Act of 1914", or the violation of or failure accurately to label as to grades and standards in accordance with any lawfully established grades or standards or labels.

(11) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(12) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of Congress of the United States, Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large 388 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering

service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(13) "Member of a cooperative association" or "member" means any producer of an agricultural commodity who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is under a marketing agreement with such cooperative association with respect to such product.

NEW SECTION. Sec. 17. A new section is added to chapter 69.04 RCW to read as follows:

(1) If a theater or other commercial food service establishment prepares and sells popcorn for human consumption, the establishment, at the point of sale, shall disclose by posting a sign in a conspicuous manner to prospective consumers a statement as to whether the butter or butter-like flavoring added to or attributed to the popcorn offered for sale is butter as defined in RCW 15.32.010 or is some other product. If the flavoring is some other product, the establishment shall also disclose the ingredients of the product.

The director of agriculture shall adopt rules prescribing the size and content of the sign upon which the disclosure is to be made. Any popcorn sold by or offered for sale by such an establishment to a consumer in violation of this section or the rules of the director implementing this section shall be deemed to be misbranded for the purposes of this chapter.

(2) The provisions of subsection (1) of this section do not apply to packaged popcorn labeled so as to disclose ingredients as required by law for prepackaged foods.

Sec. 18. Section 36, chapter 7, Laws of 1975 1st ex. sess. and RCW 69.04.398 are each amended to read as follows:

(1) The purpose of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 is to promote uniformity of state legislation and regulations with the Federal Food, Drug and Cosmetic Act 21 USC 301 et seq. and regulations adopted thereunder. In accord with such declared purpose any regulation adopted under said federal food, drug and cosmetic act concerning food in effect on July 1, 1975, and not adopted under any other specific provision of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 are hereby deemed to have been adopted under the provision hereof. Further, to promote such uniformity any regulation adopted hereafter under the provisions of the federal food, drug and cosmetic act concerning food and published in the federal register shall be deemed to have been adopted under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 in accord with chapter 34.04 RCW as enacted or hereafter amended. The director may, however, within thirty days of the publication of the adoption of any such regulation under the federal food, drug and cosmetic act give public notice that a hearing will be held to determine if such regulation shall not be applicable under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and

69.04.396. Such hearing shall be in accord with the requirements of chapter 34.04 RCW as enacted or hereafter amended.

(2) The provisions of subsection (1) of this section do not apply to rules adopted by the director as necessary to permit the production of kosher food products as defined in RCW 69.90.010.

NEW SECTION. Sec. 19. A new section is added to chapter 15.36 RCW to read as follows:

(1) The director of agriculture shall adopt rules imposing a civil penalty for violations of the standards for component parts of fluid dairy products which are established by RCW 15.36.030 or adopted pursuant to RCW 69.04.398. The penalty shall not exceed ten thousand dollars and shall be such as is necessary to achieve proper enforcement of the standards. The rules shall be adopted before January 1, 1987, and shall become effective on July 1, 1987.

(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 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 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 RCW. Tests performed for the component parts of milk products by a state laboratory of a milk sample collected by a department official shall be admitted as prima facie evidence of the amounts of milk components in the product.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department.

(4) All penalties received or recovered from violations of this section shall be remitted by the violator to the department and deposited in the revolving fund of the Washington state dairy products commission. One-half of the funds received shall be used for purposes of education with the remainder one-half to be used for dairy processing and/or marketing research. No appropriation is required for disbursements from this fund.

(5) In case of a violation of the standards for the composition of milk products, an investigation shall be made to determine the cause of the violation which shall be corrected. Additional samples shall be taken as soon as possible and tested by the department.

NEW SECTION. Sec. 20. The director of agriculture shall establish a special study committee which shall identify and review issues related to packaged fluid dairy products standards and the enforcement of such standards. The committee shall include appropriate representatives of the department of agriculture, the dairy producers of this state, and the dairy processors of this state. The committee shall submit a report, with recommendation as to any proposed legislation, to the agriculture committees of the senate and the house of representatives no later than November 1, 1986.

NEW SECTION. Sec. 21. A new section is added to chapter 15.65 RCW to read as follows:

The legislature finds that the production of marketable rapeseed within this state is in the interest of the public welfare. The legislature further finds that the production of incompatible varieties of rapeseed in close geographical proximity adversely affects the purity and marketability of rapeseed, and that it is in the public interest to establish geographical districts and buffer zones wherein the production of rapeseed may be restricted by variety.

For the purpose of rapeseed production in the state of Washington, the director of the department of agriculture shall have the regulatory authority on the production of rapeseed by variety and geographic location until such time as a rapeseed commodity commission is formulated. Once formed, the rapeseed commodity commission shall assume the regulatory authority on the production of rapeseed by variety and geographic location in the state of Washington.

NEW SECTION. Sec. 22. A new section is added to chapter 15.66 RCW to read as follows:

For the purpose of rapeseed production in the state of Washington, the director of the department of agriculture shall have the regulatory authority on the production of rapeseed by variety and geographical location until such time as a rapeseed commodity commission is formulated. Once formed, the rapeseed commodity commission shall assume the regulatory authority on the production of rapeseed by variety and geographic location in the state of Washington.

****Sec. 23. Section 3, chapter 159, Laws of 1985 and RCW 43.23.035 are each amended to read as follows:***

The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

- (1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;***
- (2) To collect, prepare, and analyze foreign and domestic market data;***

(3) To establish a program to promote and assist the marketing of Washington-bred horses;

(4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

~~((4))~~ (5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;

~~((5))~~ (6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

~~((6))~~ (7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

~~((7))~~ (8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

~~((8))~~ (9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

~~((9))~~ (10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

~~((10))~~ (11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

~~((11))~~ (12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

~~((12))~~ (13) To develop a coordinated marketing program with the department of ~~((commerce))~~ trade and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming.

*Sec. 23 was vetoed, see message at end of chapter.

Sec. 24. Section 1, chapter 26, Laws of 1985 and RCW 15.04.200 are each amended to read as follows:

(1) Under the authority of Article VIII of the state Constitution as amended, agricultural commodity commission expenditures for agricultural development or trade promotion and promotional hosting by an agricultural commodities commission under chapters 15.24, 15.28, 15.44, 15.65, 15.66, and 16.67 RCW shall be pursuant to specific budget items as approved by the agricultural commodity commission at the annual public hearings on the agricultural commodity commission budget.

(2) Agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission

employees, agents or commissioners. The rules shall identify officials and agents authorized to make expenditures and the objectives of the expenditures. Individual agricultural commodity commission commissioners shall make promotional hosting expenditures, or seek reimbursements for these expenditures, only in those instances where the expenditures have been approved by the agricultural commodity commission. All payments and reimbursements shall be identified and supported on vouchers.

(3) Agricultural commodity commissions shall be exempt from the requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

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 21 and 22 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.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 1, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1986.

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

"I am returning herewith, without my approval as to section 23, Substitute Senate Bill No. 5044, entitled:

"AN ACT Relating to the Department of Agriculture."

I am vetoing section 23 because of duplicate language contained in section 1 of Substitute House Bill No. 1355.

With the exception of section 23, the remainder of Substitute Senate Bill No. 5044 is approved."

CHAPTER 204

[House Bill No. 1337]

WASHINGTON STATE DEVELOPMENT LOAN FUND COMMITTEE

AN ACT Relating to the Washington state development loan fund committee; amending RCW 43.168.100 and 43.168.050; and repealing RCW 42.18.350.

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

Sec. 1. Section 10, chapter 164, Laws of 1985 and RCW 43.168.100 are each amended to read as follows:

The committee may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made

on the condition that the entitlement community provide the committee with assurances that it will: (1) Spend the grant moneys for purposes and in a manner which satisfies state constitutional requirements; (2) spend the grant moneys for purposes and in a manner which would satisfy federal requirements (~~dealing with the entitlement community's spending of federal community development block grant funds, assuming the grant moneys were block grant funds received from the federal government~~); and (3) spend double the amount of the grant for loans to businesses from the federal funds received by the entitlement community (~~as community development block grant funds~~).

Sec. 2. Section 5, chapter 164, Laws of 1985 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) Is located within a distressed area and may reasonably be expected to increase employment or maintain 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 distressed 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 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) 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) (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) The committee shall fix the terms and rates pertaining to its loans.

(6) 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) 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) The committee shall not approve any application to finance or help finance a shopping mall.

NEW SECTION. Sec. 3. Section 12, chapter 164, Laws of 1985 and RCW 42.18.350 are each repealed.

Passed the House March 12, 1986.

Passed the Senate March 12, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 205

[Substitute House Bill No. 1593]

HOSPITALS—STAFF MEMBERSHIP OR PROFESSIONAL PRIVILEGES

AN ACT Relating to health care facilities; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. Sec. 1. Within one hundred eighty days of the effective date of this section, the governing body of every hospital licensed under chapter 70.41 RCW shall set standards and procedures to be applied by the hospital and its medical staff in considering and acting upon applications for staff membership or professional privileges.

NEW SECTION. Sec. 2. The governing body of any hospital, except any hospital which employs its medical staff, in considering and acting upon applications for staff membership or professional privileges within the scope of the applicants' respective licenses, shall not discriminate against a qualified person solely on the basis of whether such person is licensed under chapters 18.71, 18.57, or 18.22 RCW.

NEW SECTION. Sec. 3. Any person may apply to superior court for a preliminary or permanent injunction restraining a violation of section 1 or 2 of this act. This action is an additional remedy not dependent on the adequacy of the remedy at law. Nothing in this chapter shall require a hospital to grant staff membership or professional privileges until a final determination is made upon the merits by the hospital governing body.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act shall constitute a new chapter in Title 70 RCW.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 206

[Engrossed Substitute House Bill No. 1382]

OUTDOOR RECREATION OFF-ROAD VEHICLES

AN ACT Relating to outdoor recreation; amending RCW 46.09.020, 46.09.030, 46.09.050, 46.09.070, 46.09.080, 46.09.110, 46.09.130, 46.09.170, 46.09.240, and 46.09.250; adding a new section to chapter 43.30 RCW; adding new sections to chapter 46.09 RCW; creating a new section; repealing RCW 46.09.060, 46.09.090, 46.09.260, and 46.09.270; and providing an effective date.

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

Sec. 1. Section 7, chapter 47, Laws of 1971 ex. sess. as last amended by section 129, chapter 158, Laws of 1979 and RCW 46.09.020 are each amended to read as follows:

As used in this chapter the following words and phrases ((~~shall~~)) have the designated meanings unless a different meaning is expressly provided or the context otherwise clearly indicates:

"Person" ((~~shall~~)) means any individual, firm, partnership, association, or corporation.

"Nonhighway vehicle" ((~~shall~~)) means any ((~~self-propelled~~)) motorized vehicle when used for recreation travel on trails and nonhighway roads or for recreation cross-country travel on any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland, and other natural terrain. Such vehicles ((~~shall~~)) include but are not limited to, off-road vehicles, two, three, or four-wheel ((~~drive~~)) vehicles, motorcycles, four-wheel drive vehicles, dune buggies, amphibious vehicles, ground effects or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

Nonhighway vehicle does not include:

- (1) Any vehicle designed primarily for travel on, over, or in the water;
- (2) Snowmobiles or any military vehicles; or
- (3) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

"Off-road vehicle" or "ORV" means any nonhighway vehicle when used for cross-country travel on trails or on any one of the following or a

combination thereof: Land, water, snow, ice, marsh, swampland and other natural terrain.

"ORV use permit" ~~((shall))~~ means ~~((the))~~ a permit ~~((system-established))~~ issued for operation of an off-road vehicle~~((s in this state))~~ under this chapter.

"ORV trail" ~~((shall))~~ means a multiple-use corridor designated and maintained for recreational travel by off-road vehicles ~~((which))~~ that is not normally suitable for travel by conventional two-wheel drive vehicles and ~~((where it))~~ is posted or designated by the managing authority of the property that the trail traverses as permitting ORV travel.

"ORV use area" means the entire area of a parcel of land except for camping and approved buffer areas ~~((where it))~~ that is posted or designated for ORV use in accordance with rules adopted by the managing authority.

"ORV recreation facility" includes ORV trails and ORV use areas.

"Owner" ~~((shall))~~ means the person other than the lienholder, having an interest in or title to a nonhighway vehicle, and entitled to the use or possession thereof.

"Operator" means each person who operates, or is in physical control of, any nonhighway vehicle.

~~(("ORV moneys" shall mean those moneys derived from motor vehicle excise taxes on fuel used and purchased for providing the motive power for nonhighway vehicles as described in RCW 46.09.150, ORV use permit fees, and ORV dealer permit fees, provided these moneys are:~~

~~(1) Credited to the outdoor recreation account; or~~

~~(2) Credited to the ORV account for user education or for acquisition, planning, development, maintenance, and management of designated off-road vehicle trails and areas.))~~

"Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

"Department" ~~((shall))~~ means the department of licensing.

~~(("Director" shall mean the director of licensing.~~

~~"Committee" shall mean the interagency committee for outdoor recreation.))~~

"Hunt" ~~((shall))~~ means any effort to kill, injure, capture, or purposely disturb a wild animal or wild bird.

"Nonhighway road" ~~((shall))~~ means any road owned or managed by a public agency, or any private road for which the owner has granted a permanent easement for public use of the road, other than a highway generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles and ~~((which are private roads or controlled and maintained by the department of natural resources, the state parks and recreation commission and the state game department:~~

~~PROVIDED, That such roads are~~) that is not built or maintained ~~((by))~~ with appropriations from the motor vehicle fund.

"Highway," for the purpose of this chapter only ~~((shall))~~, means the entire width between the boundary lines of every way publicly maintained by the state department of transportation or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.

"Organized competitive event" ~~((shall))~~ means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

Sec. 2. Section 8, chapter 47, Laws of 1971 ex. sess. as last amended by section 2, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.030 are each amended to read as follows:

The department shall provide for the issuance of use permits for off-road vehicles and may appoint agents for collecting fees and issuing permits. The provisions of RCW 46.01.130 and 46.01.140 ~~((shall))~~ apply to the issuance of use permits for off-road vehicles as they do to the issuance of vehicle licenses, the appointment of agents and the collection of application fees ~~((: PROVIDED, That filing fees for ORV use permits collected by the director shall be certified to the state treasurer and deposited as specified in RCW 46.09.110)).~~

Sec. 3. Section 10, chapter 47, Laws of 1971 ex. sess. as last amended by section 4, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.050 are each amended to read as follows:

ORV use permits and ORV tags shall be required under the provisions of this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision thereof.

(2) Off-road vehicles owned and operated by this state, or by any municipality or political subdivision thereof.

(3) An off-road vehicle operating in an organized competitive event on privately owned or leased land: PROVIDED, That if such leased land is owned by the state of Washington this exemption shall not apply unless the state agency exercising jurisdiction over the land in question specifically authorizes said competitive event: PROVIDED FURTHER, That such exemption shall be strictly construed.

(4) Off-road vehicles operated on lands owned or leased by the ORV owner or operator or on lands which the operator has permission to operate without an ORV use permit.

(5) ~~((An))~~ Off-road vehicles owned by a resident of another state ~~((if that off-road vehicle is registered))~~ that have a valid ORV permit or vehicle license issued in accordance with the laws of the other state. This exemption shall apply only to the extent that a similar exemption or privilege is

granted under the laws of that state(~~(, except that any off-road vehicle which is validly registered in another state and which is physically located in this state for a period of more than fifteen consecutive days shall be required to obtain a Washington state ORV use permit)~~).

(6) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(7) Vehicles used primarily for construction or inspection purposes during the course of a commercial operation.

(8) Vehicles which are licensed pursuant to chapter 46.16 RCW or in the case of nonresidents, vehicles which are validly licensed for operation over public highways in the jurisdiction of the owner's residence.

Sec. 4. Section 12, chapter 47, Laws of 1971 ex. sess. as last amended by section 6, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.070 are each amended to read as follows:

(1) Application for ~~((an))~~ annual or temporary ORV use permits shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe(~~(;) and~~) shall state the name and address of each owner of the off-road vehicle(~~(;))~~).

(2) An application for an annual permit shall be signed by at least one ~~((such))~~ owner, and shall be accompanied by a ~~((use permit))~~ fee of five dollars. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. ~~((The department may utilize applications, registration and license forms, and registration numbering provided for use prior to September 21, 1977.))~~ The ~~((ORV use))~~ annual permit ~~((provided in this section shall be))~~ is valid for a period of one year~~((Use permits shall be))~~ and is renewable each year in such manner as the department may prescribe for an additional period of one year upon payment of a renewal fee of five dollars.

Any person acquiring an off-road vehicle for which ~~((a use))~~ an annual permit has been issued ~~((under the provisions of this chapter))~~ who desires to continue to use the permit must, within fifteen days of the acquisition ~~((or purchase))~~ of the off-road vehicle, make application to the department or its authorized agent for transfer of the ~~((ORV use))~~ permit, and ~~((such))~~ the application shall be accompanied by a transfer fee of one dollar.

(3) A temporary use permit is valid for sixty days. Application for a temporary permit shall be accompanied by a fee of two dollars. The permit shall be carried on the vehicle at all times during its operation in the state.

(4) Except as provided in RCW 46.09.050, any out-of-state ((owner)) operator of an off-road vehicle shall, when operating in this state, comply with ((the provisions of)) this chapter, and if an ORV use permit is required under this chapter, the ((owner)) operator shall obtain ((a nonresident

~~ORV use)) an annual or temporary permit ((number)) and tag((, valid for not more than sixty days or an annual permit and tag. Application for such a permit shall state name and address of each owner of the off-road vehicle; shall be signed by at least one such owner, and shall be accompanied by a fee of two dollars. The permit shall be carried on the vehicle at all times during its operation in this state)).~~

Sec. 5. Section 13, chapter 47, Laws of 1971 ex. sess. as last amended by section 7, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.080 are each amended to read as follows:

(1) Each dealer of off-road vehicles in this state who does not have a current "dealer's plate" for vehicle use pursuant to chapter 46.70 RCW(;) shall obtain ~~((a dealer))~~ an ORV dealer permit from the department in such manner and upon such forms as the department shall prescribe. Upon receipt of ~~((a dealer's))~~ an application for ((a dealer)) an ORV dealer permit and the fee ~~((provided for in))~~ under subsection (2) of this section, ~~((such))~~ the dealer shall be registered and an ORV dealer permit number assigned.

(2) The ~~((ORV))~~ fee for ~~((dealers))~~ ORV dealer permits shall be twenty-five dollars per year, which ~~((shall be deposited in the outdoor recreation account, and such fee shall))~~ covers all of the off-road vehicles owned by a dealer and not rented~~((: PROVIDED, That))~~. Off-road vehicles rented on a regular, commercial basis by a dealer shall have separate use permits.

(3) Upon the issuance of an ORV dealer permit each dealer shall purchase, at a cost to be determined by the department, ORV dealer number plates of a size and color to be determined by the department, ~~((which shall))~~ that contain the dealer ORV permit number assigned to the dealer. Each off-road vehicle operated by a dealer for the purposes of testing or demonstration shall display such number plates assigned pursuant to the dealer permit provisions in chapter 46.70 RCW or this section, in a ~~((clearly visible))~~ manner prescribed by the department.

(4) No person other than a dealer or a representative thereof ~~((shall))~~ may display number plates as prescribed in subsection (3) of this section, and no dealer or representative thereof shall use such number plates for any purpose other than the purpose prescribed in subsection (3) of this section.

(5) ORV dealer permit numbers shall be nontransferable.

(6) ~~((On and after January 1, 1978,))~~ It ((shall be)) is unlawful for any dealer to sell any off-road vehicle at wholesale or retail(;) or to test or demonstrate any off-road vehicle within the state(;) unless he has a motor vehicle dealers' license pursuant to chapter 46.70 RCW or an ORV dealer permit number in accordance with ~~((the provisions of))~~ this section.

Sec. 6. Section 16, chapter 47, Laws of 1971 ex. sess. as last amended by section 60, chapter 57, Laws of 1985 and RCW 46.09.110 are each amended to read as follows:

The moneys collected by the department (~~(as ORV use permit fees)~~) under this chapter shall be distributed from time to time but at least once a year in the following manner:

~~((1))~~ The department shall retain enough money to cover expenses incurred in the administration of this chapter: **PROVIDED**, That such retention shall never exceed eighteen percent of fees collected.

~~((2))~~ Twenty percent of the moneys shall be placed in the ORV account, which is hereby established, in the state treasury and shall be administered by the department of natural resources as ORV moneys. The department of natural resources shall use these moneys to develop a state-wide program of ORV user education and information. Any portion of these moneys not used to develop an ORV user education and information program shall be deposited in the outdoor recreation account and shall be distributed by the interagency committee for outdoor recreation under RCW 46.09.240. All earnings of investments of balances in the ORV account shall be credited to the general fund.

~~((3))~~ The remaining moneys shall be ~~((credited to the outdoor recreation account of the state treasury as ORV moneys and shall be))~~ distributed by the interagency committee for outdoor recreation ~~((as specified in RCW 46.09.240. All earnings of investments of balances in the outdoor recreation account shall be credited to the general fund))~~ in accordance with RCW 46.09.170(1)(d).

Sec. 7. Section 18, chapter 47, Laws of 1971 ex. sess. as amended by section 11, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.130 are each amended to read as follows:

No person ~~((shall))~~ may operate a nonhighway vehicle in such a way as to endanger human life or to run down or harass ~~((deer, elk, or))~~ any ~~((other))~~ wildlife ~~((, or any domestic))~~ or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any nonhighway vehicle: PROVIDED, That it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon a nonhighway vehicle if the person complies with the terms and conditions of chapter 9.41 RCW.

Violation of this section ~~((shall constitute))~~ is a gross misdemeanor.

Sec. 8. Section 22, chapter 47, Laws of 1971 ex. sess. as last amended by section 130, chapter 158, Laws of 1979 and RCW 46.09.170 are each amended to read as follows:

(1) From time to time, but at least once each year, ~~((the director of licensing shall request))~~ the state treasurer ~~((to))~~ shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected ~~((pursuant to))~~ under chapter 82.36 RCW, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090. The treasurer shall place these funds in the general fund as follows:

(a) ~~((Twenty-five))~~ Forty percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural

resources solely for ~~((the acquisition;))~~ planning, ~~((development;))~~ maintenance, and management of ORV recreation facilities, nonhighway roads, and nonhighway road recreation facilities. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than five percent may be expended for information programs under this chapter;

(ii) Not less than ten percent and not more than fifty percent may be expended for ORV recreation facilities;

(iii) Not more than twenty-five percent may be expended for maintenance of nonhighway roads;

(iv) Not more than fifty percent may be expended for nonhighway road recreation facilities;

(v) Ten percent shall be transferred to the interagency committee for outdoor recreation for grants to law enforcement agencies in those counties where the department of natural resources maintains ORV facilities. This amount is in addition to those distributions made by the interagency committee for outdoor recreation under (d) (i) of this subsection;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of game solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(c) ~~((Twenty percent shall be credited to the ORV account and administered by the department of natural resources and shall be designated as ORV moneys to be used only for the acquisition, planning, development, maintenance, and management of designated off-road vehicle trails and areas, to construct campgrounds and trailheads which are necessary for the convenient use of designated ORV trails and areas, and to maintain those campgrounds and trailheads specifically constructed with ORV moneys: PROVIDED, HOWEVER, That the department of natural resources, two months prior to the acquisition and development of such trails, areas, campgrounds and trailheads for off-road vehicles, shall conduct a public hearing at a suitable location in the nearest town of five hundred population or more, and the department shall publish a notice of such hearing on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the county or counties where the property which is the subject of the proposed facility is located. The department of natural resources shall further file such notice of hearing with the department of ecology at the main office in Olympia and shall comply with the provisions of the state environmental policy act, chapter 43.21C RCW and regulations promulgated thereunder))~~ Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the maintenance and management of ORV use areas and facilities; and

(d) ~~((Fifty-one))~~ Fifty-four and one-half percent, together with the funds received by the interagency committee for outdoor recreation under RCW 46.09.110, shall be credited to the outdoor recreation account ~~((and designated as ORV moneys))~~ to be administered by the ~~((interagency))~~ committee for ~~((outdoor recreation and distributed in accordance with RCW 46.09.240))~~ planning, acquisition, development, maintenance, and management of ORV recreation facilities and nonhighway road recreation facilities; ORV user education and information; and ORV law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than twenty percent may be expended for ORV education, information, and law enforcement programs under this chapter;

(ii) Not less than an amount equal to the funds received by the interagency committee for outdoor recreation under RCW 46.09.110 and not more than sixty percent may be expended for ORV recreation facilities;

(iii) Not more than twenty percent may be expended for nonhighway road recreation facilities.

(2) On a yearly basis ~~((no))~~ an agency may not, except as provided in RCW 46.09.110, expend more than ((thirteen)) ten percent of ((its share of the above amounts)) the funds it receives under this chapter for general administration expenses incurred in carrying out ((the provisions of)) this chapter((, and not more than fifty percent of its share of said amount for education and law enforcement programs related to nonhighway vehicles.

~~(3) ORV moneys shall be expended only for the acquisition, planning, development, maintenance, and management of off-road vehicle trails and areas; for education and law enforcement programs related to nonhighway vehicles; to construct campgrounds and trailheads which are necessary for the convenient use of designated ORV trails and areas; and to maintain those campgrounds and trailheads specifically constructed with ORV moneys)).~~

Sec. 9. Section 17, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.240 are each amended to read as follows:

(1) ~~((The moneys deposited in the outdoor recreation account of the general fund derived from ORV use permit fees, ORV dealer permit fees, and motor vehicle excise taxes on fuel used and purchased for providing the motive power for nonhighway vehicles shall be administered by))~~ After deducting administrative expenses and the expense of any programs conducted under this chapter, the interagency committee for outdoor recreation ((and)) shall ((be distributed)), at least once each year, distribute the funds it receives under RCW 46.09.110 and 46.09.170 to state agencies, counties, ((and)) municipal, ~~local~~ local agencies, and Indian tribes. ~~((The interagency committee for outdoor recreation may make intergovernmental agreements with federal agencies for the use of ORV moneys. The agreements shall contain the conditions for the use of these moneys.))~~

The committee shall ~~((prescribe methods,))~~ adopt rules~~((, and standards by which agencies may apply for and obtain moneys))~~ governing applications for funds administered by the agency under this chapter and shall determine the amount of money distributed to each applicant~~((PROVIDED, That)).~~ Agencies ~~((constructing off-road vehicle trails, campgrounds, and recreational areas and facilities))~~ receiving funds under this chapter for capital purposes shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews ~~((to construct or assist in construction of such off-road vehicle trails, campgrounds, and recreational areas and facilities))~~ in completing the project.

(2) The interagency committee shall require ~~((that))~~ each applicant for land acquisition or development funds under this section to conduct, before submitting the application, a public hearing in the nearest town of five hundred population or more, and publish notice of such hearing on the same day of each week for two consecutive weeks as follows:

(a) In ~~((a))~~ the newspaper of general circulation ~~((in the county or counties where the property which is subject of))~~ published nearest the proposed ~~((facility is located prior to the submission of its application))~~ project;

(b) In the newspaper having the largest circulation in the county or counties where the proposed project is located; and

(c) If the proposed project is located in a county of class four or lower, the notice shall also be published in the newspaper having the largest circulation published in the nearest county that is class three or above.

(3) The notice shall state that the purpose of the hearing is to solicit comments regarding an application being prepared for submission to the interagency committee for outdoor recreation for acquisition or development funds under the off-road and nonhighway vehicle program. The applicant shall file notice of the hearing with the department of ecology at the main office in Olympia and shall comply with the State Environmental Policy Act, chapter 43.21C RCW. A written record and a magnetic tape recording of ~~((such hearings))~~ the hearing shall be included in the application ~~((to the committee)).~~

~~((3))~~ The interagency committee for outdoor recreation shall retain enough money from ORV moneys to cover expenses incurred in the administration of this chapter except that after June 30, 1979, the retention shall not exceed, on a yearly basis, three percent of the ORV moneys deposited in the outdoor recreation account.)

NEW SECTION. Sec. 10. The legislative budget committee shall review allocations and limitations on allocations of moneys made in this act. The review shall include an analysis of requests for moneys compared to allocations made in calendar years 1986 and 1987 and shall include the specific functions for which law enforcement and education funds have been

expended by grant recipients. The report shall be submitted to the legislature by January 1, 1988.

Sec. 11. Section 18, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.250 are each amended to read as follows:

~~((Between June 30, 1977 and June 30, 1979))~~ The interagency committee for outdoor recreation shall ~~((develop or cause to be developed))~~ maintain a state-wide ~~((ORV))~~ plan which shall ~~((determine and reflect user densities and preferences and suitability and availability of designated ORV trails and areas within the state. The plan shall be maintained on a continuing basis with the plan document))~~ be updated at least once every third biennium and shall be used by all participating agencies to guide distribution and expenditure of ~~((nonhighway vehicle))~~ funds under this chapter.

NEW SECTION. Sec. 12. A new section is added to chapter 43.30 RCW to read as follows:

The department of natural resources shall establish a recreation advisory committee, composed of persons having an interest in the recreational use of land managed by the department, to provide advice regarding outdoor recreation needs and the effect of proposed departmental actions on recreational opportunities.

NEW SECTION. Sec. 13. The interagency committee for outdoor recreation shall establish a committee of nonhighway road recreationists, including representatives of organized ORV groups, to provide advice regarding the administration of this chapter. Only representatives of organized ORV groups may be voting members of the committee with respect to expenditure of funds received under RCW 46.09.110.

NEW SECTION. Sec. 14. All earnings of investments of balances in the ORV and nonhighway vehicle account and the outdoor recreation account shall be credited to the general fund.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) Section 11, chapter 47, Laws of 1971 ex. sess., section 7, chapter 153, Laws of 1972 ex. sess., section 5, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.060;

(2) Section 14, chapter 47, Laws of 1971 ex. sess., section 10, chapter 153, Laws of 1972 ex. sess., section 8, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.090;

(3) Section 19, chapter 220, Laws of 1977 ex. sess. and RCW 46.09-.260; and

(4) Section 20, chapter 220, Laws of 1977 ex. sess. and RCW 46.09-.270.

NEW SECTION. Sec. 16. Sections 13 and 14 of this act shall be added to chapter 46.09 RCW.

NEW SECTION. Sec. 17. This act shall take effect on June 30, 1986.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 207

[Senate Bill No. 3193]

OCCUPATIONAL DISEASES—INDUSTRIAL INSURANCE CLAIMS

AN ACT Relating to occupational disease; and amending RCW 41.40.200.

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

Sec. 1. Section 21, chapter 274, Laws of 1947 as last amended by section 3, chapter 18, Laws of 1982 and RCW 41.40.200 are each amended to read as follows:

(1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his or her employer, a member who becomes totally incapacitated for duty as the natural and proximate result of an accident occurring in the actual performance of duty or who becomes totally incapacitated for duty and qualifies to receive benefits under Title 51 RCW as a result of an occupational disease, as now or hereafter defined in RCW 51.08.140, while in the service of an employer, without wilful negligence on his or her part, shall be retired: PROVIDED, The medical adviser after a medical examination of such member made by or under the direction of the said medical adviser shall certify in writing that such member is mentally or physically totally incapacitated for the further performance of his or her duty ((to his employer)) and that such member should be retired: PROVIDED FURTHER, That the ((retirement board)) director concurs in the recommendation of the medical adviser: AND PROVIDED FURTHER, No application shall be valid or a claim thereunder enforceable unless in the case of an accident the claim is filed within two years after the date upon which the injury occurred or, in the case of an occupational disease, the claim is filed within two years after the member separated from service with the employer. The coverage provided for occupational disease under this section may be restricted in the future by the legislature for all current and future members.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the

~~((retirement board))~~ director, shall be considered a retirement under subsection (1) of this section.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 208

[Senate Bill No. 3336]

CLASS H LICENSE—HOTELS—LIQUOR BY THE BOTTLE

AN ACT Relating to hotel class H licensees' authority to sell liquor by the bottle to registered guests for consumption in guest rooms or at banquets in the hotel; and amending RCW 66.24.400; declaring an emergency; and providing an effective date.

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

Sec. 1. Section 23-S-1 added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 5, Laws of 1949 as last amended by section 2, chapter 94, Laws of 1981 and RCW 66.24.400 are each amended to read as follows:

There shall be a retailer's license, to be known and designated as class H license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only: PROVIDED, That a hotel licensed under this section may sell liquor by the bottle to registered guests of the hotel for consumption in guest rooms, hospitality rooms, or at banquets in the hotel: PROVIDED FURTHER, That a patron of a bona fide hotel, restaurant, or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal, and registered guests who have purchased liquor from the hotel by the bottle may remove from the premises any unused portion of such liquor in its original container. Such class H license may be issued only to bona fide restaurants, hotels and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at publicly owned civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a class H license under the provisions and limitations of this title.

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

government and its existing public institutions, and shall take effect on May 1, 1986.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 209

[Engrossed Substitute Senate Bill No. 4465]

DEADLY FORCE

AN ACT Relating to deadly force; amending RCW 9A.16.010 and 9A.16.040; and creating a new section.

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

Sec. 1. Section 9A.16.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.16.010 are each amended to read as follows:

In this chapter, unless a different meaning is plainly required:

(1) "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.

(2) "Deadly force" means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.

Sec. 2. Section 9A.16.040, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.16.040 are each amended to read as follows:

~~(1) Homicide or the use of deadly force is justifiable ((when committed by a public officer, or person acting under his command and in his aid,))~~ in the following cases:

~~((+))~~ (a) When a public officer is acting in obedience to the judgment of a competent court((-)); or

~~((2))~~ (b) When ((necessary)) necessarily used by a peace officer to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty.

~~((3) When necessary in retaking an escaped or rescued prisoner who has been committed, arrested for, or convicted of a felony; or in arresting a person who has committed a felony and is fleeing from justice; or in attempting, by lawful ways or means, to apprehend a person for a felony actually committed; or in lawfully suppressing a riot or preserving the peace.))~~

(c) When necessarily used by a peace officer or person acting under the officer's command and in the officer's aid:

(i) To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony;

(ii) To prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility; or

(iii) To prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or

(iv) To lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.

(2) In considering whether to use deadly force under subsection (1)(c) of this section, to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:

(a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or

(b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.

Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given.

(3) A public officer or peace officer shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.

(4) This section shall not be construed as:

(a) Affecting the permissible use of force by a person acting under the authority of RCW 9A.16.020 or 9A.16.050; or

(b) Preventing a law enforcement agency from adopting standards pertaining to its use of deadly force that are more restrictive than this section.

NEW SECTION. Sec. 3. The legislature recognizes that RCW 9A.16.040 establishes a dual standard with respect to the use of deadly force by peace officers and private citizens, and further recognizes that private citizens' permissible use of deadly force under the authority of RCW 9.01-.200, 9A.16.020, or 9A.16.050 is not restricted and remains broader than the limitations imposed on peace officers.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 210

[Second Substitute House Bill No. 136]

HAZARDOUS WASTES—MODERATE-RISK WASTE MANAGEMENT—
HAZARDOUS HOUSEHOLD SUBSTANCES—HAZARDOUS SUBSTANCES
DISPOSAL FACILITIES

AN ACT Relating to the control of dangerous wastes that had household uses; amending RCW 70.105.220 and 70.105.235; and adding a new section to chapter 70.105 RCW.

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

Sec. 1. Section 6, chapter 448, Laws of 1985 and RCW 70.105.220 are each amended to read as follows:

(1) Each local government, or combination of contiguous local governments, is directed to prepare a local hazardous waste plan which shall be based on state guidelines and include the following elements:

(a) A plan or program to manage moderate-risk wastes that are generated or otherwise present within the jurisdiction. This element shall include an assessment of the quantities, types, generators, and fate of moderate-risk wastes in the jurisdiction. The purpose of this element is to develop a system of managing moderate-risk waste, appropriate to each local area, to ensure protection of the environment and public health;

(b) A plan or program to provide for ongoing public involvement and public education in regard to the management of moderate-risk waste. This element shall provide information regarding:

(i) The potential hazards to human health and the environment resulting from improper use and disposal of the waste; and

(ii) Proper methods of handling, reducing, recycling, and disposing of the waste;

(c) An inventory of all existing generators of hazardous waste and facilities managing hazardous waste within the jurisdiction. This inventory shall be based on data provided by the department;

(d) A description of the public involvement process used in developing the plan;

(e) A description of the eligible zones designated in accordance with RCW 70.105.225. However, the requirement to designate eligible zones shall not be considered part of the local hazardous waste planning requirements; and

(f) Other elements as deemed appropriate by local government.

(2) To the maximum extent practicable, the local hazardous waste plan shall be coordinated with other hazardous materials-related plans and policies in the jurisdiction.

(3) In recognition of the role of the private sector in providing hazardous and moderate-risk waste management facilities and transportation services, and in addition to other public involvement activities that may be

required, local governments shall coordinate with those persons involved in providing such facilities and services.

(4) (a) The department shall prepare guidelines for the development of local hazardous waste plans. The guidelines shall be prepared in consultation with local governments and shall be completed by December 31, 1986. The guidelines shall include a list of substances identified as hazardous household substances.

(b) In preparing the guidelines under (a) of this subsection, the department shall review and assess information on pilot projects that have been conducted for moderate-risk waste management. The department shall encourage additional pilot projects as needed to provide information to improve and update the guidelines.

(5) The department shall consult with retailers, trade associations, public interest groups, and appropriate units of local government to encourage the development of voluntary public education programs on the proper handling of hazardous household substances.

(6) Local hazardous waste plans shall be completed and submitted to the department no later than June 30, 1990. Local governments may from time to time amend the local plan.

~~((6))~~ (7) Each local government, or combination of contiguous local governments, shall submit its local hazardous waste plan or amendments thereto to the department. The department shall approve or disapprove local hazardous waste plans or amendments by December 31, 1990, or within ninety days of submission, whichever is later. The department shall approve a local hazardous waste plan if it determines that the plan is consistent with this chapter and the guidelines under subsection (4) of this section. If approval is denied, the department shall submit its objections to the local government within ninety days of submission. However, for plans submitted between January 1, 1990, and June 30, 1990, the department shall have one hundred eighty days to submit its objections. No local government is eligible for grants under RCW 70.105.235 for implementing a local hazardous waste plan unless the plan for that jurisdiction has been approved by the department.

~~((7))~~ (8) Each local government, or combination of contiguous local governments, shall implement the local hazardous waste plan for its jurisdiction by December 31, 1991.

~~((8))~~ (9) The department may waive the specific requirements of this section for any local government if such local government demonstrates to the satisfaction of the department that the objectives of the planning requirements ~~((has have))~~ have been met.

Sec. 2. Section 9, chapter 448, Laws of 1985 and RCW 70.105.235 are each amended to read as follows:

(1) Subject to legislative appropriations, the department may make and administer grants to local governments for (a) preparing and updating

local hazardous waste plans, (b) implementing approved local hazardous waste plans, and (c) designating eligible zones for designated zone facilities as required under this chapter.

(2) Local governments shall match the funds provided by the department for planning or designating zones with an amount not less than twenty-five percent of the estimated cost of the work to be performed. Local governments may meet their share of costs with cash or contributed services. Local governments, or combination of contiguous local governments, conducting pilot projects pursuant to RCW 70.105.220(4) may subtract the cost of those pilot projects conducted for hazardous household substances from their share of the cost. If a pilot project has been conducted for all moderate-risk wastes, only the portion of the cost that applies to hazardous household substances shall be subtracted. The matching funds requirement under this subsection shall be waived for local governments, or combination of contiguous local governments, that complete and submit their local hazardous waste plans under RCW 70.105.220(6) prior to June 30, 1988.

(3) Recipients of grants shall meet such qualifications and follow such procedures in applying for and using grants as may be established by the department.

NEW SECTION. Sec. 3. A new section is added to chapter 70.105 RCW to read as follows:

The legislature recognizes the need for new, modified, or expanded facilities to treat, incinerate, or otherwise process or dispose of hazardous substances safely. In order to encourage the development of such facilities, the department shall adopt rules as necessary regarding the permitting of such facilities to ensure the most expeditious permit processing possible consistent with the substantive requirements of applicable law. If owners and operators are not the same entity, the operator shall be the permit applicant and responsible for the development of the permit application and all accompanying materials, as long as the owner also signs the application and certifies its ownership of the real property described in the application, and acknowledges its awareness of the contents of the application and receipt of a copy thereof.

Passed the House March 8, 1986.

Passed the Senate February 27, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 211

[Engrossed Substitute Senate Bill No. 4503]

MOBILE HOMES—TAXATION

AN ACT Relating to the taxation of mobile homes, travel trailers, and campers; amending RCW 82.45.032, 82.08.033, and 82.12.033; and reenacting and amending RCW 46.44.170.

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

Sec. 1. Section 1, chapter 266, Laws of 1979 ex. sess. as amended by section 1, chapter 192, Laws of 1984 and RCW 82.45.032 are each amended to read as follows:

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

(1) "Real estate" or "real property" means real property but includes used mobile homes and used floating homes.

(2) "Used mobile home" means a mobile home which has been previously sold at retail and ~~((the immediately preceding sale))~~ has ~~((already))~~ been subjected to tax under chapter 82.08 RCW, or which has been previously used and ~~((the immediately preceding use))~~ has ~~((already))~~ been subjected to tax under chapter 82.12 RCW, and which has substantially lost its identity as a mobile unit at the time of sale 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, and other utilities.

(3) "Mobile home" means a mobile home as defined by RCW 46.04-.302, as now or hereafter amended.

(4) "Used floating home" means a floating home in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

(5) "Floating home" means a building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located.

Sec. 2. Section 3, chapter 266, Laws of 1979 ex. sess. and RCW 82-.08.033 are each amended to read as follows:

The tax imposed by RCW 82.08.020 shall not apply to:

(1) Sales of used mobile homes as defined in RCW 82.45.032 ~~((or sales of used mobile homes if the sale thereof to the present user has already been subjected to tax under [chapter] 82.45 RCW))~~.

(2) The renting or leasing of mobile homes ~~((where such))~~ if the rental agreement or lease exceeds thirty days in duration and ~~((where))~~ if the rental or lease of such mobile home is not conducted jointly with the provision of short-term lodging for transients.

Sec. 3. Section 4, chapter 266, Laws of 1979 ex. sess. and RCW 82-.12.033 are each amended to read as follows:

The tax imposed by RCW 82.12.020 shall not apply in respect to:

(i) The use of used mobile homes as defined in RCW 82.45.032 ~~((if the sale thereof to the present user has already been subjected to tax under chapter 82.45 RCW))~~.

(2) The use of a mobile home acquired by renting or leasing if the rental agreement or lease exceeds thirty days in duration and if the rental or lease of the mobile home is not conducted jointly with the provision of short-term lodging for transients.

Sec. 4. Section 2, chapter 22, Laws of 1977 ex. sess. as last amended by section 1, chapter 22, Laws of 1985 and by section 1, chapter 395, Laws of 1985 and RCW 46.44.170 are each reenacted and amended to read as follows:

(1) Any person moving a mobile home as defined in RCW 46.04.302 upon public highways of the state must obtain a special permit from the department of transportation and local authorities pursuant to RCW 46.44-.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46-.44.0941 and 46.44.096.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home shall not be valid until the county treasurer of the county in which the mobile home is located shall endorse or attach thereto his certificate that all property taxes (~~due in that calendar year, and all delinquent taxes~~) which are a lien or which are delinquent, or both, upon the mobile home being moved have been satisfied. Further, any mobile home required to have a special movement permit under this section shall display an easily recognizable decal: PROVIDED, That endorsement or certification by the county treasurer and the display of said decal is not required when a mobile home is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets. It shall be the responsibility of the owner of the mobile home or the agent to obtain such endorsement from the county treasurer and said decal.

(3) Nothing herein should be construed as prohibiting the issuance of vehicle license plates for a mobile home, but no such plates shall be issued unless the mobile home for which such plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for such license has been paid.

(4) The department of transportation and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation shall adopt rules specifying the design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this section.

Passed the Senate March 9, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 212

[Senate Bill No. 4529]

PRIVILEGED COMMUNICATIONS FOR REGISTERED NURSES

AN ACT Relating to privileged communications for registered nurses; and amending RCW 5.62.020 and 5.62.030.

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

Sec. 1. Section 2, chapter 447, Laws of 1985 and RCW 5.62.020 are each amended to read as follows:

No registered nurse providing primary care or practicing under protocols, whether or not the physical presence or direct supervision of a physician is required, may be examined in a civil or criminal action as to any information acquired in attending a patient in the registered nurse's professional capacity, if the information was necessary to enable the registered nurse to act in that capacity for the patient, unless:

(1) The patient consents to disclosure or, in the event of death or disability of the patient, his or her personal representative, heir, beneficiary, or devisee consents to disclosure; or

(2) The information relates to the contemplation or execution of a crime in the future, or relates to the neglect or the sexual or physical abuse of a child, or of a vulnerable adult as defined in RCW 74.34.020, or to a person subject to proceedings under chapter 71.05 or 71.34 RCW.

Sec. 2. Section 3, chapter 447, Laws of 1985 and RCW 5.62.030 are each amended to read as follows:

Notwithstanding anything to the contrary in this chapter, the privilege created in this chapter is subject to the same limitations and exemptions contained in RCW 26.26.120, 26.44.060(3), and 51.04.050(~~and 71.05-250~~) as those limitations and exemptions relate to the physician/patient privilege of RCW 5.60.060.

Passed the Senate February 14, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 213

[Senate Bill No. 4537]

DRIVING WITH AN EXPIRED LICENSE—TRAFFIC INFRACTIONS,
CONDITIONS FOR LOCAL COURTS' DISCRETION

AN ACT Relating to driving with an expired license; and amending RCW 46.64.020 and 46.63.110.

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

Sec. 1. Section 46.64.020, chapter 12, Laws of 1961 as amended by section 8, chapter 128, Laws of 1980 and RCW 46.64.020 are each amended to read as follows:

Any person wilfully violating his written and signed promise to appear in court or his written and signed promise to respond to a notice of traffic infraction, as provided in this title, (~~shall be~~) is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested or the disposition of the notice of infraction: PROVIDED, That a written promise to appear in court or a written promise to respond to a notice of traffic infraction may be complied with by an appearance by counsel: PROVIDED FURTHER, That a person charged under RCW 46.20.021 with driving with an expired driver's license may respond by mailing to the court within fifteen days of the violation, a copy of the person's currently valid driver's license. Any person who has been issued a notice of infraction pursuant to RCW 46.63.030(3) and who wilfully fails to respond as provided in this title (~~shall be~~) is guilty of a misdemeanor regardless of the disposition of the notice of infraction.

Sec. 2. Section 330, chapter 258, Laws of 1984 and RCW 46.63.110 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court (~~may~~) shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time

the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department may not renew the person's driver's license until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 214

[Senate Bill No. 4538]

WINE—GROWER'S LICENSE—LICENSED PREMISES, CONTENT OF SPOKEN LANGUAGE

AN ACT Relating to wine; amending RCW 66.08.050; and adding a new section to chapter 66.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 66.24 RCW to read as follows:

There shall be a grower's license to sell wine made from grapes or other agricultural products owned at the time of vinification by the licensee in bulk to holders of domestic wineries', distillers', or manufacturers' licenses or for export. The wine shall be made upon the premises of a domestic winery licensee and is referred to in this section as grower's wine. A grower's license authorizes the agricultural product grower to contract for the manufacturing of wine from the grower's own agricultural product, store wine in bulk made from agricultural products produced by the holder of this license, and to sell wine in bulk made from the grower's own agricultural products to a winery or distillery in the state of Washington or to export in bulk for sale out-of-state. The annual fee for a grower's license shall be seventy-five dollars. For the purpose of chapter 66.28 RCW, a grower licensee shall be deemed a manufacturer.

Sec. 2. Section 69, chapter 62, Laws of 1933 ex. sess. as last amended by section 1, chapter 160, Laws of 1983 and RCW 66.08.050 are each amended to read as follows:

The board, subject to the provisions of this title and the regulations, shall

(1) determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;

(2) appoint in cities and towns and other communities, in which no state liquor store is located, liquor vendors. Such liquor vendors shall be agents of the board and be authorized to sell liquor to such persons, firms or corporations as provided for the sale of liquor from a state liquor store, and such vendors shall be subject to such additional rules and regulations consistent with this title as the board may require;

(3) establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;

(4) provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;

(5) determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(6) execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(7) pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

(8) require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(9) perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(10) perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and shall have full power to do each and every act necessary to the conduct of its business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor: PROVIDED, That the board shall have no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language.

Passed the Senate March 8, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 215

[Substitute Senate Bill No. 4926]

STATE BUDGETING, ACCOUNTING, AND REPORTING SYSTEM

AN ACT Relating to state budgeting, accounting, and reporting; amending RCW 43.88.010, 43.88.020, 43.88.030, 43.88.110, 43.88.160, and 43.88.210; creating a new section; and repealing RCW 43.88.111 and 43.88.112.

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

Sec. 1. Section 43.88.010, chapter 8, Laws of 1965 as last amended by section 1, chapter 270, Laws of 1981 and RCW 43.88.010 are each amended to read as follows:

It is the purpose of this chapter to establish an effective (~~budget and~~) state budgeting, accounting, and reporting system for all activities of the state government, including both capital and operating expenditures; to prescribe the powers and duties of the governor as these relate to securing such fiscal controls as will promote effective budget administration; and to prescribe the responsibilities of agencies of the executive branch of the state government.

It is the intent of the legislature that the powers conferred by this chapter, as amended, shall be exercised by the executive in cooperation with the legislature and its standing, special, and interim committees in its status as a separate and coequal branch of state government.

Sec. 2. Section 1, chapter 36, Laws of 1982 1st ex. sess. as amended by section 6, chapter 138, Laws of 1984 and RCW 43.88.020 are each amended to read as follows:

(1) "Budget" shall mean a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" shall mean a formal, written statement offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" shall mean the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" shall mean and include every state office, officer, each institution, whether educational, correctional or other, and every department, division, board and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, shall mean all moneys, including cash, checks, bills, notes, drafts, stocks and bonds, whether held in

trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" shall mean the policies, standards and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or his designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" shall mean the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose; but "dedicated fund" shall not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the legislative budget committee, the legislative evaluation and accountability program committee, the ways and means committees of the senate and house of representatives, and, where appropriate, the legislative transportation committee.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "Stabilization account" means the budget stabilization account created under RCW 43.88.525 as an account in the general fund of the state treasury.

(18) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(19) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(20) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(21) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.01.120.

(22) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(23) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(24) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

Sec. 3. Section 43.88.030, chapter 8, Laws of 1965 as last amended by section 7, chapter 138, Laws of 1984 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 estimated revenues for such fiscal period from the source and at the rates existing by

law at the time of submission of the budget document: PROVIDED, That 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) Cash surplus or deficit, by fund, to the extent provided by RCW 43.88.040 and 43.88.050;

(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 anticipated revenues 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.

(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.

Sec. 4. Section 43.88.110, chapter 8, Laws of 1965 as last amended by section 8, chapter 138, Laws of 1984 and RCW 43.88.110 are each amended to read as follows:

This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds. Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(1) ~~((Before))~~ The director of financial management shall provide all agencies with a complete set of instructions for preparing a statement of proposed expenditures at least thirty days before the beginning of a fiscal period. The set of instructions need not include specific appropriation amounts for the agency.

(2) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later, all agencies shall submit to the governor a statement of proposed ((agency)) expenditures at such times and in such form as may be required by the governor. ((The statement of proposed expenditures shall show, among other things, the requested allotments of public funds for the ensuing fiscal period for the agency concerned on a monthly basis for the entire fiscal period. The governor shall review the requested allotments in the light of the agency's plan of work and, with the advice of the director of financial management, the governor may revise or alter agency allotments. PROVIDED, That revision of allotments shall not be made for agencies headed by elective officials pursuant to this subsection. The aggregate of the allotments for an appropriation shall not exceed the total appropriation.

~~(2) Except for the legislative and judicial branches of government, approved allotments may be revised during the course of the fiscal period in accordance with the regulations issued pursuant to this chapter.))~~ If at any time during the fiscal period the governor shall ascertain that estimated revenues for the applicable period will be less than the respective appropriations, the governor shall ~~((revise the))~~ make across-the-board reductions in allotments ((concerned)) so as to prevent the making of expenditures in excess of estimated revenues. ~~((To the same end, the governor is authorized to withhold and to assign to, and to remove from, a reserve status any portion of an agency appropriation which in the governor's discretion is not needed for the allotment.~~

~~No expenditures shall be made from any portion of an appropriation which has been assigned to a reserve status except as provided in this section.))~~ Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed expenditures for reasonableness and conformance with legislative intent. Once the governor approves the statements of proposed expenditures, further revisions shall be made only at the beginning of the second fiscal year and must be initiated by the governor. However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, and changes caused by executive increases to spending authority may require additional revisions. Revisions shall not be made retroactively. Revisions caused by executive increases to spending authority shall not be made after June 30, 1987. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.

(3) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported

by the agency to the director of financial management. The director of financial management shall monitor agency expenditures ((to prevent spending patterns which inflate agency expenditures during the second year of a biennium)) against the approved statement of proposed expenditures and shall provide the legislature with quarterly explanations of major variances.

(4) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees.

Sec. 5. Section 11, chapter 10, Laws of 1982 and RCW 43.88.160 are each amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. (1) The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for ((comprehensive)) central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period. ~~((This shall include the timely reporting of primary budget drivers such as actual workloads, caseloads, and unit cost data for applicable areas. The director of financial management shall review the data for accuracy and consistency. The director shall submit the data to the legislative evaluation~~

~~and accountability program committee. The legislative evaluation and accountability program committee shall provide reports on the data at least quarterly to the legislative fiscal committees and the office of financial management:))~~

The director of financial management is responsible for quarterly reporting of primary budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be ((updated concurrently with the quarterly revenue and economic forecast and)) transmitted to the legislative fiscal committees. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

In addition, the director of financial management, as agent of the governor, shall:

(a) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(b) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(c) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(d) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(e) Provide for transfers and repayments between the budget stabilization account and the general fund as directed by appropriation and RCW 43.88.525 through 43.88.540;

(f) Promulgate regulations to effectuate provisions contained in subsections (a) through (e) hereof.

(2) The treasurer shall:

(a) Receive, keep and disburse all public funds of the state not expressly required by law to be received, kept and disbursed by some other persons: **PROVIDED**, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Disburse public funds under the treasurer's supervision or custody by warrant or check;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to issue any warrant or check for public funds in the treasury except upon forms duly prescribed by the director of financial management. Said forms shall provide for authentication and certification by the agency head or his designee that the services have been rendered or the materials have been furnished; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made: **PROVIDED**, That when services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services: **AND PROVIDED FURTHER**, That no payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter.

(3) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end he may, in the auditor's discretion, examine the books and accounts of any agency, official or employee charged with the receipt, custody or safekeeping of public funds. The current post audit of each agency may include a section

on recommendations to the legislature as provided in subsection (3)(c) of this section.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include at least the following:

Determinations as to whether agencies, in making expenditures, complied with the laws of this state: PROVIDED, That nothing in this act shall be construed to grant the state auditor the right to perform performance audits. A performance audit for the purpose of this act shall be the examination of the effectiveness of the administration, its efficiency and its adequacy in terms of the programs of departments or agencies as previously approved by the legislature. The authority and responsibility to conduct such an examination shall be vested in the legislative budget committee as prescribed in RCW 44.28.085 as now or hereafter amended.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.

(e) Promptly report any irregularities to the attorney general.

(4) The legislative budget committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in RCW 44.28.085 as now or hereafter amended. To this end the committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs and generally for an improved level of fiscal management.

Sec. 6. Section 43.88.210, chapter 8, Laws of 1965 and RCW 43.88-.210 are each amended to read as follows:

It is the intent of this chapter to assign to the governor's office authority for developing and maintaining a state budgeting, accounting, and reporting (~~and other~~) system(~~s~~) necessary for effective expenditure and revenue control among agencies.

To this end:

(1) All powers and duties and functions of the state auditor relating to the disbursement of public funds by warrant or check are hereby transferred to the state treasurer as the governor may direct but no later than ninety days after the start of the next fiscal biennium, and the state auditor shall deliver to the state treasurer all books, records, accounts, equipment, or other property relating to such function. In all cases where any question shall arise as to the proper custody of any such books, records, accounts, equipment or property, or pending business, the governor shall determine the question;

(2) In all cases where reports, notices, certifications, vouchers, disbursements and similar statements are now required to be given to any agency the duties and responsibilities of which are being assigned or re-assigned by this chapter, the same shall be given to the agency or agencies in the manner provided for in this chapter.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

(1) Section 6, chapter 270, Laws of 1981 and RCW 43.88.111; and

(2) Section 7, chapter 270, Laws of 1981, section 2, chapter 15, Laws of 1982 2nd ex. sess., section 9, chapter 138, Laws of 1984 and RCW 43.88.112.

NEW SECTION. Sec. 8. The amendments to chapter 43.88 RCW by this act are intended to improve the reporting of state budgeting, accounting, and other fiscal data. The legislative evaluation and accountability program committee shall periodically review chapter 43.88 RCW and shall recommend further revisions if needed.

Passed the Senate February 18, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 216

[Engrossed Substitute Senate Bill No. 4949]

HEALTH CARE ASSISTANTS

AN ACT Relating to health care assistants; amending RCW 18.135.030 and 18.135.060; and adding new sections to chapter 18.135 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.135 RCW to read as follows:

The legislature declares that the citizenry of the state of Washington has a right to expect that health care assistants are sufficiently educated and trained to provide the services authorized under this chapter. It is the intent of the legislature that the regulations implementing this chapter and governing the education and occupational qualifications, work experience, instruction and training of health care assistants ensure that the public health and welfare are protected.

Sec. 2. Section 4, chapter 281, Laws of 1984 and RCW 18.135.030 are each amended to read as follows:

The director, or the director's designee, with the advice of designees of the board of medical examiners, the board of osteopathic medicine and surgery, the podiatry board, and the board of nursing, shall adopt rules necessary to administer, implement, and enforce this chapter and establish the minimum (~~(uniform)~~) requirements necessary for a health care facility or health care practitioner to certify a health care assistant capable of performing the functions authorized in this chapter. The rules shall establish minimum requirements for each and every category of health care assistant. Said rules shall be adopted after fair consideration of input from representatives of each category. These requirements shall ensure that the public health and welfare are protected and shall include, but not be limited to, the following factors:

(1) The education and occupational qualifications (~~(of)~~) for the health care assistant (~~(including types and limitation of drugs or diagnostic agents which may be administered by injection by a health care assistant)~~) category;

(2) The work experience (~~(of)~~) for the health care assistant category; ~~((and))~~

(3) The instruction and training provided (~~(to)~~) for the health care assistant category; and

(4) The types of drugs or diagnostic agents which may be administered by injection by health care assistants working in a hospital or nursing home. The rules established pursuant to this subsection shall not prohibit health care assistants working in a health care facility other than a nursing home or hospital from performing the functions authorized under this chapter.

Sec. 3. Section 6, chapter 281, Laws of 1984 and RCW 18.135.060 are each amended to read as follows:

Any health care assistant certified pursuant to this chapter shall perform the functions authorized in this chapter only by delegation of authority from the health care practitioner and under the supervision of a health care

practitioner acting within the scope of his or her license. In the case of subcutaneous, intradermal and intramuscular and intravenous injections, a health care assistant may perform such functions only under the supervision of a health care practitioner having authority, within the scope of his or her license, to order such procedures. The health care practitioner who ordered the procedure or a health care practitioner who could order the procedure under his or her license shall be physically present in the immediate area of a hospital or nursing home where the injection is administered. Sensitivity agents being administered intradermally or by the scratch method are excluded from this requirement.

NEW SECTION. Sec. 4. A new section is added to chapter 18.135 RCW to read as follows:

(1) Each delegator, as defined under RCW 18.135.020(6) shall maintain a list of specific medications, diagnostic agents, and the route of administration of each that he or she has authorized for injection. Both the delegator and delegatee shall sign the above list, indicating the date of each signature. The signed list shall be forwarded to the director of the department of licensing and shall be available for review.

(2) Delegatees are prohibited from administering any controlled substance as defined in RCW 69.50.101(2)(d), any experimental drug, and any cancer chemotherapy agent unless a delegator is physically present in the immediate area where the drug is administered.

Passed the Senate March 10, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 217

[Substitute Senate Bill No. 4990]

WATERCRAFT CARRYING PASSENGERS FOR HIRE

AN ACT Relating to river running; adding a new chapter to Title 91 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The purpose of this chapter is to further the public interest, welfare, and safety by providing for the protection and promotion of safety in the operation of watercraft carrying passengers for hire on the rivers of this state.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Watercraft" means every type of watercraft carrying passengers for hire used as a means of transportation on a river, including but not limited to power boats, drift boats, open canoes, inflatable crafts, decked canoes, and kayaks.

(2) "Carrying passengers for hire" means carrying passengers by watercraft for valuable consideration, whether given directly or indirectly or received by the owner, agent, operator, or other person having an interest in the watercraft. This shall not affect trips where expenses for food, transportation, or incidentals are shared by participants on an even basis. Anyone receiving compensation for skills or money for amortization of equipment and carrying passengers shall be considered to be carrying passengers for hire. Individuals licensed under chapter 77.32 RCW and acting as a fishing guide are exempt from this chapter.

(3) "Operate" means to navigate or otherwise use a watercraft.

(4) "Operator" means any person operating the watercraft or performing the duties of a pilot or guide for one or more watercraft in a group.

(5) "Passenger" means every person on board a watercraft who is not an operator.

(6) "Rivers of the state" means those rivers and streams, or parts thereof, within the boundaries of this state.

NEW SECTION. Sec. 3. (1) No person may operate any watercraft in a manner that interferes with other watercraft or with the free and proper navigation of the rivers of this state.

(2) Every operator of a watercraft shall at all times operate the watercraft in a careful and prudent manner and at such a speed as to not endanger the life, limb, or property of any person.

(3) No watercraft may be loaded with passengers or cargo beyond its safe carrying capacity taking into consideration the type and construction of the watercraft and other existing operating conditions. In the case of inflatable crafts, safe carrying capacity in whitewater shall be considered as less than the United States Coast Guard capacity rating for each watercraft. This subsection shall not apply in cases of an unexpected emergency on the river.

NEW SECTION. Sec. 4. (1) Except as provided in subsection (2) of this section, watercraft proceeding downstream have the right of way over watercraft proceeding upstream.

(2) In all cases, watercraft not under power have the right of way over motorized craft underway.

NEW SECTION. Sec. 5. (1) No person may operate on the rivers of this state a watercraft carrying passengers for hire unless the person has been issued a valid Red Cross standard first aid card or at least its equivalent.

(2) This section does not apply to a person operating a vessel on the navigable waters of the United States in this state and who is licensed by the United States Coast Guard for the type of vessel being operated.

NEW SECTION. Sec. 6. While carrying passengers for hire on whitewater river sections in this state, the operator and owner shall:

(1) If using inflatable watercraft, use only watercraft with three or more separate air chambers;

(2) Ensure that all passengers and operators are wearing a securely fastened United States Coast Guard approved type III or type V life jacket in good condition;

(3) Ensure that each watercraft has accessible a spare type III or type V life jacket in good repair;

(4) Ensure that each watercraft has on it a bagged throwable line with a floating line and bag;

(5) Ensure that each watercraft has accessible an adequate first-aid kit;

(6) Ensure that each watercraft has a spare propelling device;

(7) Ensure that a repair kit and air pump are accessible to inflatable watercraft; and

(8) Ensure that equipment to prevent and treat hypothermia is accessible to all watercraft on a trip.

NEW SECTION. Sec. 7. (1) Watercraft operators and passengers on any trip carrying passengers for hire shall not allow the use of alcohol during the course of a trip on a whitewater river section in this state.

(2) Any watercraft carrying passengers for hire on any whitewater river section in this state must be accompanied by at least one other watercraft under the supervision of the same operator or owner or being operated by a person registered under section 11 of this act or an operator under the direction or control of a person registered under section 11 of this act.

NEW SECTION. Sec. 8. Whitewater river sections include but are not limited to:

(1) Green river above Flaming Geyser state park;

(2) Klickitat river above the confluence with Summit creek;

(3) Methow river below the town of Carlton;

(4) Sauk river above the town of Darrington;

(5) Skagit river above Bacon creek;

(6) Suiattle river;

(7) Tieton river below Rimrock dam;

(8) Skykomish river below Sunset Falls and above the Highway 2 bridge one mile east of the town of Gold Bar;

(9) Wenatchee river above the Wenatchee county park at the town of Monitor;

(10) White Salmon river; and

(11) Any other section of river designated a "whitewater river section" by the interagency committee for outdoor recreation. Such river sections shall be class two or greater difficulty under the international scale of whitewater difficulty.

NEW SECTION. Sec. 9. (1) When, as a result of an occurrence that involves a watercraft or its equipment, a person dies or disappears from a watercraft, the operator shall notify the nearest sheriff's department, state patrol office, coast guard station, or other law enforcement agency of:

- (a) The date, time, and exact location of the occurrence;
- (b) The name of each person who died or disappeared;
- (c) A description of the watercraft; and
- (d) The names and addresses of the owner and operator.

(2) When the operator of a boat cannot give the notice required by subsection (1) of this section, each person on board the boat shall either give the notice or determine that the notice has been given.

NEW SECTION. Sec. 10. (1) Every peace officer of this state and its political subdivisions has the authority to enforce this chapter. Wildlife agents of the department of game and fisheries patrol officers of the department of fisheries, through their directors, the state patrol, through its chief, county sheriffs, and other local law enforcement bodies, shall assist in the enforcement. In the exercise of this responsibility, all such officers may stop any watercraft and direct it to a suitable pier or anchorage for boarding.

(2) A person, while operating a watercraft on any waters of this state, shall not knowingly flee or attempt to elude a law enforcement officer after having received a signal from the law enforcement officer to bring the boat to a stop.

(3) This chapter shall be construed to supplement federal laws and regulations. To the extent this chapter is inconsistent with federal laws and regulations, the federal laws and regulations shall control.

NEW SECTION. Sec. 11. (1) Any person carrying passengers for hire on whitewater river sections in this state may register with the department of licensing. Each registration application shall be submitted annually on a form provided by the department of licensing and shall include the following information:

(a) The name, residence address, and residence telephone number, and the business name, address, and telephone number of the registrant;

(b) Proof that the registrant has liability insurance for a minimum of three hundred thousand dollars per claim for occurrences by the registrant and the registrant's employees that result in bodily injury or property damage; and

(c) Certification that the registrant will maintain the insurance for a period of not less than one year from the date of registration.

(2) The department of licensing shall charge a fee for each application, to be set in accordance with RCW 43.24.086.

(3) Any person advertising or representing themselves as having registered under this section who is not currently registered is guilty of a gross misdemeanor.

(4) The department of licensing shall submit annually a list of registered persons and companies to the department of trade and economic development, tourism promotion division.

(5) If an insurance company cancels or refuses to renew insurance for a registrant during the period of registration, the insurance company shall notify the department of licensing in writing of the termination of coverage and its effective date not less than thirty days before the effective date of termination.

(a) Upon receipt of an insurance company termination notice, the department of licensing shall send written notice to the registrant that on the effective date of termination the department of licensing will suspend the registration unless proof of insurance as required by this section is filed with the department of licensing before the effective date of the termination.

(b) If an insurance company fails to give notice of coverage termination, this failure shall not have the effect of continuing the coverage.

(c) The department of licensing may suspend or revoke registration under this section if the registrant fails to maintain in full force and effect the insurance required by section 11 of this act.

(6) The state of Washington shall be immune from any civil action arising from a registration under this section.

NEW SECTION. Sec. 12. A person violating this chapter shall be subject to a civil penalty of up to one hundred fifty dollars per violation.

NEW SECTION. Sec. 13. Sections 1 through 12 of this act shall constitute a new chapter in Title 91 RCW.

Passed the Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 218

[Substitute Senate Bill No. 5005]

CREDIT SERVICES ORGANIZATION ACT

AN ACT Relating to credit service organizations; adding a new chapter to Title 19 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. This chapter may be known and cited as the "credit services organizations act."

NEW SECTION. Sec. 2. 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 a buyer's credit record, history, or rating;
 (ii) Obtaining an extension of credit for a buyer; or
 (iii) Providing advice or assistance to a buyer with regard to either (a)(i) or (a)(ii) 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.

(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.

NEW SECTION. Sec. 3. 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;

(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.

NEW SECTION. Sec. 4. If a credit services organization is in compliance with section 3(1) of this act, the salesperson, agent, or representative who sells the services of that organization is not required to obtain a surety bond and establish a trust account.

NEW SECTION. Sec. 5. Before the execution of a contract or agreement between the buyer and a credit services organization or before the receipt by the credit services organization of any money or other valuable consideration, whichever occurs first, the credit services organization shall provide the buyer with a statement in writing, containing all the information required by section 6 of this act. The credit services organization shall maintain on file for a period of two years an exact copy of the statement, personally signed by the buyer, acknowledging receipt of a copy of the statement.

NEW SECTION. Sec. 6. The information statement required under section 5 of this act shall include all of the following:

(1)(a) A complete and accurate statement of the buyer's right to review any file on the buyer maintained by any consumer reporting agency, as provided under the federal Fair Credit Reporting Act, 15 U.S.C. Secs. 1681 through 1681t;

(b) A statement that the buyer may review his or her consumer reporting agency file at no charge if a request is made to the consumer credit reporting agency within thirty days after receiving notice that credit has been denied; and

(c) The approximate price the buyer will be charged by the consumer reporting agency to review his or her consumer reporting agency file;

(2) A complete and accurate statement of the buyer's right to dispute the completeness or accuracy of any item contained in any file on the buyer maintained by any consumer reporting agency;

(3) A complete and detailed description of the services to be performed by the credit services organization for the buyer and the total amount the buyer will have to pay, or become obligated to pay, for the services;

(4) A statement asserting the buyer's right to proceed against the bond or trust account required under section 3 of this act; and

(5) The name and address of the surety company that issued the bond, or the name and address of the depository and the trustee and the account number of the trust account.

NEW SECTION. Sec. 7. (1) Each contract between the buyer and a credit services organization for the purchase of the services of the credit services organization shall be in writing, dated, signed by the buyer, and include all of the following:

(a) A conspicuous statement in bold face type, in immediate proximity to the space reserved for the signature of the buyer, as follows: "You, the buyer, may cancel this contract at any time prior to midnight of the fifth day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right";

(b) The terms and conditions of payment, including the total of all payments to be made by the buyer, whether to the credit services organization or to some other person;

(c) A full and detailed description of the services to be performed by the credit services organization for the buyer, including all guarantees and all promises of full or partial refunds, and the estimated date by which the services are to be performed, or estimated length of time for performing the services;

(d) The credit services organization's principal business address and the name and address of its agent in the state authorized to receive service of process;

(2) The contract shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" that shall be attached to the contract, be easily detachable, and contain in bold face type the following statement written in the same language as used in the contract.

CHAPTER 219

[Substitute Senate Bill No. 4897]

PROCESS SERVERS—COURT BUSINESS ON LEGAL HOLIDAYS—CRIMINAL TRESPASS

AN ACT Relating to process servers; amending RCW 2.28.100, and 9A.52.090; and prescribing penalties.

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

Sec. 1. Section 2, chapter 51, Laws of 1927 as amended by section 1, chapter 54, Laws of 1933 and RCW 2.28.100 are each amended to read as follows:

No court shall be open, nor shall any judicial business be transacted, on a legal holiday, except:

(1) To give, upon their request, instructions to a jury when deliberating on their verdict;

(2) To receive the verdict of a jury;

(3) For the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature;

(4) For hearing applications for and issuing writs of habeas corpus, injunction, prohibition and attachment;

(5) For the issuance of any process or subpoena not requiring immediate judicial or court action, and the service thereof.

The governor, in declaring any legal holiday, in his discretion, may provide in his proclamation that such holiday shall not be applicable to the courts of or within the state.

Sec. 2. Section 9A.52.090, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.52.090 are each amended to read as follows:

In any prosecution under RCW 9A.52.070 and 9A.52.080, it is a defense that:

(1) A building involved in an offense under RCW 9A.52.070 was abandoned; or

(2) The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

(3) The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him to enter or remain; or

(4) The actor was attempting to serve legal process which includes any document required or allowed to be served upon persons or property, by any statute, rule, ordinance, regulation, or court order, excluding delivery by the mails of the United States. This defense applies only if the actor did not enter into a private residence or other building not open to the public and

the entry onto the premises was reasonable and necessary for service of the legal process.

- Passed the Senate March 9, 1986.
- Passed the House March 5, 1986.
- Approved by the Governor April 2, 1986.
- Filed in Office of Secretary of State April 2, 1986.

CHAPTER 220

[Engrossed Substitute Senate Bill No. 4659]

COMMUNITY PROPERTY—MEDICAL CARE PROGRAMS—ELIGIBILITY

AN ACT Relating to eligibility determinations for medical care programs; adding a new section to chapter 74.09 RCW; and making an appropriation.

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

NEW SECTION. Sec. 1. A new section is added to chapter 74.09 RCW to read as follows:

(1) An agreement between spouses transferring or assigning rights to future income from one spouse to the other shall be invalid for purposes of determining eligibility for medical assistance or the limited casualty program for the medically needy, but this subsection does not affect agreements between spouses transferring or assigning resources, and income produced by transferred or assigned resources shall continue to be recognized as the separate income of the transferee; and

(2) In determining eligibility for medical assistance or the limited casualty program for the medically needy for a married person in need of institutional care, or care under home and community based waivers as defined in Title XIX of the Social Security Act, if the community income received in the name of the nonapplicant spouse exceeds the community income received in the name of the applicant spouse, the applicant's interest in that excess shall be considered unavailable to the applicant.

NEW SECTION. Sec. 2. There is appropriated from the general fund to the department of social and health services for the biennium ending June 30, 1987, the sum of two million seven hundred nine thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

- Passed the Senate March 8, 1986.
- Passed the House March 4, 1986.
- Approved by the Governor April 2, 1986.
- Filed in Office of Secretary of State April 2, 1986.

CHAPTER 221

[Engrossed Senate Bill No. 4601]

HISTORIC PROPERTY

AN ACT Relating to the rehabilitation and assessment of historic property; and amending RCW 84.26.020, 84.26.030, 84.26.040, 84.26.050, 84.26.070, 84.26.080, and 84.26.090.

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

Sec. 1. Section 2, chapter 449, Laws of 1985 and RCW 84.26.020 are each amended to read as follows:

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

(1) "Historic property" means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is:

(a) Listed in a local register of historic places created by comprehensive ordinance, certified by the secretary of the interior as provided in P.L. 96-515; or

(b) Listed in the national register of historic places.

(2) (~~"Substantial improvement"~~) "Cost" means the actual cost of rehabilitation, which ~~((is))~~ cost shall be at least twenty-five percent ((or greater)) of the assessed valuation of the historic ~~((structure))~~ property, exclusive of the assessed value attributable to the land, prior to rehabilitation.

(3) "Special valuation" means the determination of the assessed value of the historic property ~~((at a rate that excludes, for up to ten years, the actual cost of a substantial improvement))~~ subtracting, for up to ten years, such cost as is approved by the local review board.

(4) "State review board" means the advisory council on historic preservation established under chapter 27.34 RCW, or any successor agency designated by the state to act as the state historic preservation review board under federal law.

(5) "Local review board" means a local body designated by the local legislative authority.

(6) "Owner" means the owner of record.

(7) "Rehabilitation" is the process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its architectural and cultural values.

Sec. 2. Section 3, chapter 449, Laws of 1985 and RCW 84.26.030 are each amended to read as follows:

Four criteria must be met for special valuation under this chapter. The property must:

(1) Be an historic property;

(2) Fall within a class of historic property determined eligible for special valuation by the local legislative authority;

(3) Be (~~(substantially improved)~~) rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) within twenty-four months prior to the application for special valuation; and

(4) Be protected by (~~(a covenant)~~) an agreement between the owner and the local review board as described in RCW 84.26.050(2).

Sec. 3. Section 4, chapter 449, Laws of 1985 and RCW 84.26.040 are each amended to read as follows:

An owner of property desiring special valuation under this chapter shall apply to the assessor of the county in which the property is located upon forms prescribed by the department of revenue and supplied by the county assessor. The application form shall include a statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for special valuation. Applications shall be made no later than October 1 of the calendar year preceding the first assessment year for which classification is requested. The assessor may charge only such fees as are necessary to process and record documents pursuant to this chapter.

Sec. 4. Section 5, chapter 449, Laws of 1985 and RCW 84.26.050 are each amended to read as follows:

(1) Within ten days after the filing of the application in the county assessor's office, the county assessor shall refer each application for classification to the local review board.

(2) The review board shall approve the application if the property meets the criterion of RCW 84.26.030 and is not altered in a way which adversely affects those elements which qualify it as historically significant, and the owner enters into (~~(a covenant)~~) an agreement with the review board which requires the owner for the ten-year period of the classification to:

(a) Monitor the property for its continued qualification for the special valuation;

(b) Comply with rehabilitation plans and minimum standards of maintenance as defined in the agreement;

(c) Make the historic aspects of the property accessible to public view one day a year, if the property is not visible from the public right of way;

(d) Apply to the local review board for approval or denial of any demolition or alteration; and

(e) Comply with any other provisions in the original agreement as may be appropriate.

(3) Once (~~(a covenant)~~) an agreement between an owner and a review board has become effective pursuant to this chapter, there shall be no changes in standards of maintenance, public access, alteration, or report requirements, or any other provisions of the (~~(covenant)~~) agreement, during

the period of the classification without the approval of all parties to the ~~((covenant))~~ agreement.

(4) An application for classification as an eligible historic property shall be approved or denied by the local review board before December 31 of the calendar year in which the application is made.

(5) The local review board is authorized to examine the records of applicants.

Sec. 5. Section 7, chapter 449, Laws of 1985 and RCW 84.26.070 are each amended to read as follows:

(1) The county assessor shall, for ten consecutive assessment years following the calendar year in which application is made, ~~((value))~~ place a special valuation on property classified as eligible historic property ~~((excluding the actual cost of the substantial improvement completed within the twenty-four months prior to the application))~~.

(2) The entitlement of property to the special valuation provisions of this section shall be determined as of January 1. If property becomes disqualified for the special valuation for any reason, the property shall receive the special valuation for that part of any year during which it remained qualified or the owner was acting in the good faith belief that the property was qualified.

(3) At the conclusion of special valuation, the ~~((actual cost of the substantial improvement))~~ cost shall be considered as new construction.

Sec. 6. Section 8, chapter 449, Laws of 1985 and RCW 84.26.080 are each amended to read as follows:

(1) When property has once been classified and valued as eligible historic property, it shall remain so classified and be granted the special valuation provided by RCW 84.26.070 for ten years or until the property is disqualified by:

(a) Notice by the owner to the assessor to remove the special valuation;
 (b) Sale or transfer to an ownership making it exempt from property taxation; or

(c) Removal of the special valuation by the assessor upon determination by the local review board that the property no longer qualifies as historic property or that the owner has failed to comply with the conditions established under RCW 84.26.050.

(2) The sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner does not disqualify the property from the special valuation provided by RCW 84.26.070 if:

(a) The property continues to qualify as historic property; and
 (b) The new owner files a notice of compliance with the assessor of the county in which the property is located. Notice of compliance forms shall be prescribed by the state department of revenue and supplied by the county assessor. The notice shall contain a statement that the new owner is aware of the special valuation and of the potential tax liability involved when the

property ceases to be valued as historic property under this chapter. The signed notice of compliance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.120. If the notice of compliance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to RCW 84.26.090(~~((1) (a) and (b))~~) 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 specially valued historic property for filing or recording unless the new owner has signed the notice of compliance or the additional tax has been paid.

(3) When the property ceases to qualify for the special valuation the owner shall immediately notify the state or local review board.

(4) Before the additional tax or penalty imposed by RCW 84.26.090 is levied, in the case of disqualification, the assessor shall notify the taxpayer by mail, return receipt requested, of the disqualification.

Sec. 7. Section 9, chapter 449, Laws of 1985 and RCW 84.26.090 are each amended to read as follows:

(1) Except as provided in subsection (~~((4))~~) (3) of this section, whenever property classified and valued as eligible historic property under RCW 84.26.070 becomes disqualified for the valuation, there shall be added to the tax (~~(levied against the property on the next general property tax roll)~~) an additional tax equal to:

(a) The (~~(actual cost of the substantial improvement)~~) cost multiplied by the levy rate in each year the property was subject to special valuation; plus

(b) Interest on the amounts of the additional tax at the statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the property had not been valued as historic property under this chapter; plus

(c) A penalty equal to twelve percent of the amount determined in (a) and (b) of this subsection.

(2) The additional tax and penalties, together with applicable interest thereon, shall become a lien on the property which shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the property may become charged or liable.

(3) (~~(Before the additional tax or penalty imposed by subsection (1) of this section is added to the tax levied against the property on the next general property tax roll, in the case of disqualification under RCW 84.26.080, the assessor shall notify the owner of the property by mail, return receipt requested, of the disqualification.~~)

(4)) The additional tax, interest, and penalty shall not be imposed if the disqualification resulted solely from:

- (a) Sale or transfer of the property to an ownership making it exempt from taxation;
- (b) Alteration or destruction through no fault of the owner; or
- (c) A taking through the exercise of the power of eminent domain.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 222

[Substitute Senate Bill No. 4574]

CHORE SERVICES

AN ACT Relating to chore services; amending RCW 74.08.541; and declaring an emergency.

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

Sec. 1. Section 17, chapter 6, Laws of 1981 1st ex. sess. as amended by section 39, chapter 41, Laws of 1983 1st ex. sess. and RCW 74.08.541 are each amended to read as follows:

(1) "Chore services," as used in this chapter, means services in performing light work and household and other personal tasks which eligible persons are unable to do for themselves because of frailty or handicapping conditions.

(2) Persons eligible for chore services are adult individuals having resources less than a level determined by the department, and whose ((level of)) need for chore services and risk of being placed in a residential care facility have been determined by the department.

(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((; or)); (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((, are eligible for services at no cost. Other individuals are eligible for needed chore services at a reduced level based on their ability to purchase the services.)); 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 ((of reduced services in comparison to determined need so that recipient participation does not reduce income below thirty percent of the state median income. Subject to the availability of funds, the department shall develop a sliding scale of participation considering a portion of income between thirty percent and fifty percent of the state median income and all income above

~~fifty percent of the state median income. Any scale of reduced service developed by the department shall maintain services as in effect on August 23, 1983, to those persons below thirty percent of the state median income. However, the department is authorized to continue, without reduction, benefits provided to persons receiving chore services on August 23, 1983)) which progressively reduces the level or amount of chore services provided by the department based on the ability of applicants and recipients to purchase the 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 ((level)) amount of service shall be referred to ((the)) a volunteer chore service program under the senior citizens services act, chapter 74.38 RCW, where ((such program exists)) available for needed ((hours or)) services not ((provided)) authorized by the department.

(d) Individuals 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 ((emergent)) situation necessitating the services has stabilized, not to exceed ninety days.

~~((For clients whose chore services are authorized on an hourly basis,))~~
(3) The department shall establish a monthly dollar lid on chore ((service hours, which shall be allocated to the department's community service offices. This lid shall be established at a level set by the department. The department shall also establish a monthly rate lid to apply to clients whose chore services are authorized on a monthly rate basis)) 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 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 care facility of all applicants for, and recipients of, chore services.

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

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

Passed the Senate February 17, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 223

[Engrossed House Bill No. 1630]

HEALTH CARE SERVICE CONTRACTORS

AN ACT Relating to health care service contractors; amending RCW 48.44.020, 48.44.030, 48.44.080, 48.44.145, 48.44.290, 48.44.300, 48.44.310, and 48.44.350; reenacting and amending RCW 48.44.010; adding new sections to chapter 48.44 RCW; and declaring an emergency.

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

Sec. 1. Section 1, chapter 268, Laws of 1947 as last amended by section 3, chapter 154, Laws of 1983 and by section 3, chapter 286, Laws of 1983 and RCW 48.44.010 are each reenacted and amended to read as follows:

For the purposes of this chapter:

(1) "Health care services" means and includes medical, surgical, dental, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, custodial, mental health, and other therapeutic services. (~~(Ambulance services licensed in this state, the services of an optometrist licensed by the state of Washington, the services of a podiatrist licensed by the state of Washington, and the services of a pharmacist registered by the state of Washington are also declared to be health care services for the purposes of this chapter.)~~)

(2) (~~"Doctor"~~) "Provider" means any person lawfully licensed or authorized by the state of Washington to render any health care services.

(3) "Health care service contractor" means any corporation, cooperative group, or association, which (~~(corporation, cooperative group, or association)~~) is sponsored by or otherwise intimately connected with a (~~(group of doctors licensed by the state of Washington or by a group of hospitals licensed by the state of Washington, or doctor licensed by the state of Washington, or group of doctors licensed by the state of Washington)~~) provider or group of providers, who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services. (~~(The term also includes any corporation, cooperative group, or association, sponsored by or otherwise intimately connected with a group of pharmacists registered by the state of Washington; or any pharmacist, or group of pharmacists, registered by the~~)

state of Washington; who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services:))

(4) "Participant" means a ~~((doctor, hospital, or licensed pharmacy, drug store or dispensary))~~ provider, who or which has contracted in writing with a health care service contractor to accept payment from and to look solely to such contractor according to the terms of the subscriber contract for any health care services rendered to a person who has previously paid, or on whose behalf prepayment has been made, to such contractor for such services.

Sec. 2. Section 2, chapter 268, Laws of 1947 as last amended by section 1, chapter 283, Laws of 1985 and RCW 48.44.020 are each amended to read as follows:

(1) Any health care service contractor may enter into agreements with or for the benefit of persons or groups of persons which require prepayment for health care services by or for such persons in consideration of such health care service contractor providing one or more health care services to such persons and such activity shall not be subject to the laws relating to insurance if the health care services are rendered by the health care service contractor or by a participant.

(2) The commissioner may ~~((require the submission of contract forms for his examination and may))~~ on examination, subject to the right of the health care service contractor to demand and receive a hearing under chapters 48.04 and 34.04 RCW, disapprove any contract form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(b) If it has any title, heading or other indication of its provisions which is misleading; or

(c) If purchase of health care services thereunder is being solicited by deceptive advertising; or

(d) If, the benefits provided therein are unreasonable in relation to the amount charged for the contract;

(e) If it contains unreasonable restrictions on the treatment of patients;

(f) If it violates any provision of this chapter;

(g) If it fails to conform to minimum provisions or standards required by regulation made by the commissioner pursuant to chapter 34.04 RCW; ~~((or))~~

(h) If any contract for health care services with any state agency, division, subdivision, board or commission or with any political subdivision,

municipal corporation, or quasi-municipal corporation fails to comply with state law.

Sec. 3. Section 3, chapter 268, Laws of 1947 as last amended by section 22, chapter 339, Laws of 1981 and RCW 48.44.030 are each amended to read as follows:

If any of the health care services which are promised in any such agreement are not to be performed by the health care service contractor, or by a participant, such activity shall not be subject to the laws relating to insurance, ~~((but such agreement shall contain))~~ provided provision is made for reimbursement or indemnity of the persons ((paying)) who have previously paid, or on whose behalf prepayment has been made, for such services ((which agreement)). Such reimbursement or indemnity shall either be underwritten by an insurance company authorized to write accident, health and disability insurance in the state or guaranteed by a surety company authorized to do business in this state, or guaranteed by a deposit of cash or securities eligible for investment by insurers pursuant to chapter 48.13 RCW, with the insurance commissioner, as hereinafter provided. If the ((agreement)) reimbursement or indemnity is underwritten by an insurance company, the contract or policy of insurance may designate the health care service contractor as the named insured, but shall be for the benefit of the persons who have previously paid, or on whose behalf prepayment has been made, for ((or contracted for)) such health care services. If the ((agreement)) reimbursement or indemnity is guaranteed by a surety company, the surety bond shall designate the state of Washington as the named obligee, but shall be for the benefit of the persons who have previously paid, or on whose behalf prepayment has been made, for ((or contracted for)) such health care services, and shall be in such amount as the insurance commissioner shall direct, but in no event in a sum greater than the amount of one hundred fifty thousand dollars or ((one-twelfth of the total sum of money received by the health care service contractor during the preceding twelve months as prepayment for health care services)) the amount necessary to cover incurred but unpaid reimbursement or indemnity benefits as reported in the last annual statement filed with the insurance commissioner, and adjusted to reflect known or anticipated increases or decreases during the ensuing year, plus an amount of unearned prepayments applicable to reimbursement or indemnity benefits satisfactory to the insurance commissioner, whichever amount is greater. A copy of such insurance policy or surety bond, as the case may be, and any modification thereof, shall be filed with the insurance commissioner. If the ((agreement)) reimbursement or indemnity is guaranteed by a deposit of cash or securities, such deposit shall be in such amount as the insurance commissioner shall direct, but in no event in a sum greater than the amount of one hundred fifty thousand dollars or ((one-twelfth of the total sum of money received by the health care service contractor during the preceding twelve months as prepayment for

health care services)) the amount necessary to cover incurred but unpaid reimbursement or indemnity benefits as reported in the last annual statement filed with the insurance commissioner, and adjusted to reflect known or anticipated increases or decreases during the ensuing year, plus an amount of unearned prepayments applicable to reimbursement or indemnity benefits satisfactory to the insurance commissioner, whichever amount is greater. Such cash or security deposit shall be held in trust by the insurance commissioner and shall be for the benefit of the persons who have previously paid ((for or contracted)), or on whose behalf prepayment has been made, for such health care services.

Sec. 4. Section 5, chapter 197, Laws of 1961 as amended by section 3, chapter 87, Laws of 1965 and RCW 48.44.080 are each amended to read as follows:

Every health care service contractor shall file with its annual statement with the insurance commissioner ((lists)) a master list of the participants with whom or with which such health care service contractor has executed contracts of participation, certifying that each such participant has executed such contract of participation. The health care service contractor shall ((immediately)) on the first day of each month notify the insurance commissioner in writing in case of the termination of any such contract, and of any participant who has entered into a participating contract during the preceding month.

***Sec. 5. Section 12, chapter 115, Laws of 1969 as amended by section 1, chapter 63, Laws of 1983 and RCW 48.44.145 are each amended to read as follows:**

(1) The commissioner may make an examination of the operations of any health care service contractor as often as he deems necessary in order to carry out the purposes of this chapter.

(2) Every health care service contractor shall submit its books and records relating to its operation for financial condition and market conduct examinations and in every way facilitate them. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the health care service contractor.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the health care service contractor in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his report of the examination.

(4) Health care service contractors licensed in the state shall be equitably assessed to cover the cost of financial condition and market conduct examinations. The assessments shall be levied not less frequently than once every twelve months and shall be in an amount expected to fund the examinations, including a reasonable margin for cost variations. The assessments shall be established by rules promulgated by the commissioner but shall not

exceed one-half cent per month per person entitled to health care services pursuant to an agreement under RCW 48.44.020(1), excluding such persons who are not residents of this state. The commissioner may assess a contractor on any basis that is applicable to all similarly situated contractors and is considered equitable. Assessment receipts shall be deposited in the general fund, shall be accounted for separately, and shall be used for the sole purpose of funding the examinations authorized in subsection (1) of this section. Amounts remaining in the separate account at the end of a biennium shall be applied to reduce the assessments in the succeeding biennium.

(5) Whenever any health care service contractor applies for initial admission, the commissioner may make, or cause to be made, an examination of the applicant's business and affairs. Whenever such an examination is made, all of the provisions of chapter 48.03 RCW not inconsistent with this chapter shall be applicable. In lieu of making an examination himself the commissioner may, in the case of a foreign health care service contractor, accept an examination report of the applicant by the regulatory official in its state of domicile.

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

Sec. 6. Section 1, chapter 175, Laws of 1981 and RCW 48.44.290 are each amended to read as follows:

Notwithstanding any provision of this chapter, for any health care service contract thereunder which is entered into or renewed after July 26, 1981, benefits shall not be denied under such contract for any health care service performed by a holder of a license issued pursuant to chapter 18.88 RCW if (1) the service performed was within the lawful scope of such person's license, and (2) such contract would have provided benefits if such service had been performed by a holder of a license issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That no provision of chapter 18.71 RCW shall be asserted to deny benefits under this section(~~: AND PROVIDED FURTHER, That no part of this section shall apply to agreements entered into or renewed by a health maintenance organization which provides comprehensive health care services directly to enrolled participants of such organization on a group practice per capita prepayment basis, and which is a health maintenance organization registered under chapter 48.46 RCW or a federally qualified health maintenance organization~~)).

The provisions of this section are intended to be remedial and procedural to the extent that they do not impair the obligation of any existing contract.

Sec. 7. Section 2, chapter 154, Laws of 1983 and RCW 48.44.300 are each amended to read as follows:

Benefits shall not be denied under a contract for any health care service performed by a holder of a license issued under chapter 18.22 RCW if

(1) the service performed was within the lawful scope of the person's license, and (2) the contract would have provided benefits if the service had been performed by a holder of a license issued under chapter 18.71 RCW. There shall not be imposed upon one class of doctors providing health care services as defined by this chapter any requirement that is not imposed upon all other doctors providing the same or similar health care services within the scope of their license. ~~((This section does not apply to agreements entered into or renewed by a health maintenance organization which provides comprehensive health care services directly to enrolled participants of the organization on a group practice per capita prepayment basis and which is a health maintenance organization registered under chapter 48.46 RCW or a federally qualified health maintenance organization.))~~

The provisions of this section are intended to be procedural to the extent that they do not impair the obligation of any existing contract.

Sec. 8. Section 2, chapter 286, Laws of 1983 and RCW 48.44.310 are each amended to read as follows:

(1) Each group contract for comprehensive health care service which is entered into, or renewed, on or after September 8, 1983, between a health care service contractor and the person or persons to receive such care shall offer coverage for chiropractic care on the same basis as any other care.

(2) A patient of a chiropractor shall not be denied benefits under a contract because the practitioner is not licensed under chapter 18.57 or 18.71 RCW.

~~(3) ((This section shall not apply to agreements entered into or renewed by a health maintenance organization as defined in RCW 48.46.020(1) or a federally qualified health maintenance organization.~~

~~(4))~~ This section shall not apply to a group contract for comprehensive health care services entered into in accordance with a collective bargaining agreement between management and labor representatives. Benefits for chiropractic care shall be offered by the employer in good faith on the same basis as any other care as a subject for collective bargaining for group contracts for health care services.

Sec. 9. Section 6, chapter 202, Laws of 1983 and RCW 48.44.350 are each amended to read as follows:

(1) No person having any authority in the investment or disposition of the funds of a ~~((domestic))~~ health care service contractor and no officer or director of a health care service contractor shall accept, except ~~((as agent))~~ for the health care service contractor, or be the beneficiary of any fee, brokerage, gift, commission, or other emolument because of any sale of health care service agreements or any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the health care service contractor, or be pecuniarily interested therein in any capacity; except, that such a person may procure a loan from the health care service contractor directly upon

approval by two-thirds of its directors and upon the pledge of securities eligible for the investment of the health care service contractor's funds under this title.

(2) The commissioner may, by regulations, from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the health care service contractor, or to a corporation or firm in which the director is interested, for necessary services performed or sales or purchases made to or for the health care service contractor in the ordinary course of the health care service contractor's business and in the usual private professional or business capacity of the director or the corporation or firm.

NEW SECTION. Sec. 10. A new section is added to chapter 48.44 RCW to read as follows:

If an individual health care service agreement is issued on any basis other than as applied for, an endorsement setting forth such modification must accompany and be attached to the agreement. No agreement shall be effective unless the endorsement is signed by the applicant, and a signed copy thereof returned to the health care service contractor.

NEW SECTION. Sec. 11. A new section is added to chapter 48.44 RCW to read as follows:

After July 1, 1986, or on the next renewal date of the agreement, whichever is later, every health care service agreement issued, amended, or renewed for an individual and his or her dependents shall contain provisions to assure that the covered spouse and/or dependents, in the event that any cease to be a qualified family member by reason of termination of marriage or death of the principal enrollee, shall have the right to continue the health care service agreement without a physical examination, statement of health, or other proof of insurability.

NEW SECTION. Sec. 12. A new section is added to chapter 48.44 RCW to read as follows:

No health care service contractor shall terminate any person covered under a health care service contract because of a change in the physical or mental condition or health of such person: PROVIDED, That, after approval of the insurance commissioner, a health care service contractor may discharge its obligation to continue coverage for such person by obtaining coverage with another health care service contractor, or with an insurer which is comparable in terms of premiums and benefits.

****NEW SECTION. Sec. 13. Section 5 of this act, which amends RCW 48.44.145, shall not take effect if RCW 48.44.145 is amended by ESB 3636 prior to July 1, 1986.***

***Sec. 13 was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 11, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 2, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 2, 1986.

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

"I am returning herewith, without my approval as to sections 5 and 13, Engrossed House Bill No. 1630, entitled:

"AN ACT Relating to health care service contractors."

Sections 5 and 13 of this bill conflict with amendments to RCW 48.44.145 contained in Engrossed Senate Bill No. 3636. The amendments in Engrossed Senate Bill No. 3636 are part of a new method of funding the Office of the Insurance Commissioner and are thus the appropriate amendments to RCW 48.44.145.

With the exception of sections 5 and 13, Engrossed House Bill 1630 is approved."

CHAPTER 224

[Substitute House Bill No. 1400] INDETERMINATE SENTENCING

AN ACT Relating to indeterminate sentencing; amending RCW 9.95.001, 9.95.003, 9.95.005, 9.95.007, 9.95.009, 9.95.015, 9.95.040, and 9.95.052; adding new sections to chapter 9.95 RCW; creating a new section; repealing RCW 9.95.001, 9.95.003, 9.95.005, 9.95.007, 9.95.009, 9.95.—, 9.95.015, and 9.95.—; repealing section 39, chapter 137, Laws of 1981 (uncodified); repealing section 1 of this 1986 act (uncodified); and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that a process for review of duration of confinement and release decisions for persons convicted of crimes committed before July 1, 1984, must be available after the board of prison terms and paroles ceases to exist. A transitional agency, the indeterminate sentence review board, is created to review such decisions until 1992 when all of the functions, powers, and duties previously performed by the indeterminate sentence review board will be transferred to the superior courts of the state of Washington.

Sec. 2. Section 1, chapter 114, Laws of 1935 and section 1, chapter 47, Laws of 1947 and RCW 9.95.001 are each amended to read as follows:

((There shall be a board of prison terms and paroles:)) On July 1, 1986, the board of prison terms and paroles shall be redesignated the indeterminate sentence review board. The newly designated board shall retain the same membership and staff as the previously designated board of prison terms and paroles. References to "the board" or "board of prison terms and

paroles" contained in this chapter, chapters 7.68, 9.95, 9.96, 71.06, and 72.04A RCW, and RCW 9A.44.045 and 72.68.031 are deemed to refer to the indeterminate sentence review board.

*Sec. 3. Section 9, chapter 340, Laws of 1955 as last amended by section 8, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 9.95.003 are each amended to read as follows:

The board (~~(of prison terms and paroles)~~) shall consist of a chairman and six other members, each of whom shall be appointed by the governor with the consent of the senate. Each member shall hold office for a term of five years, and until his or her successor is appointed and qualified(~~(-PROVIDED, That the two additional members to be appointed to the board shall serve initial terms ending April 15, 1972 and 1974 respectively)~~). The terms shall expire on April 15th of the expiration year. Vacancies in the membership of the board shall be filled (~~(in the same manner in which the original appointments are made)~~) by appointment by the governor with the consent of the senate. ***However, the governor may request nominations of qualified persons when filling vacancies in the board after July 1, 1987.*** In the event of the inability of any member to act, the governor shall appoint some competent person to act in his stead during the continuance of such inability. The members shall not be removable during their respective terms except for cause determined by the superior court of Thurston county. The governor in appointing the members shall designate one of them to serve as chairman at the governor's pleasure.

The members of the board (~~(of prison terms and paroles)~~) and its officers and employees shall not engage in any other business or profession or hold any other public office; nor shall they, at the time of appointment or employment or during their incumbency, serve as the representative of any political party on an executive committee or other governing body thereof, or as an executive officer or employee of any political committee or association. The members of the board (~~(of prison terms and paroles)~~) shall each severally receive salaries(~~(, payable in monthly installments, as may be)~~) fixed by the governor in accordance with the provisions of RCW 43.03.040, and in addition (~~(thereto;)~~) shall receive travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060 (~~(as now existing or hereafter amended)~~).

The board may employ, and fix, with the approval of the governor, the compensation of and prescribe the duties of a secretary and such officers, employees, and assistants as may be necessary, and provide necessary quarters, supplies, and equipment.

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

Sec. 4. Section 10, chapter 340, Laws of 1955 as amended by section 2, chapter 32, Laws of 1959 and RCW 9.95.005 are each amended to read as follows:

The board (~~((of prison terms and paroles))~~) shall meet at the penitentiary and the reformatory at such times as may be necessary for a full and complete study of the cases of all convicted persons whose (~~((terms of imprisonment))~~) durations of confinement are to be determined by it or whose applications for parole come before it. Other times and places of meetings may also be fixed by the board.

The superintendents of the different institutions shall provide suitable quarters for the board and assistants while in the discharge of their duties.

Sec. 5. Section 3, chapter 32, Laws of 1959 as amended by section 1, chapter 63, Laws of 1975-'76 2nd ex. sess. and RCW 9.95.007 are each amended to read as follows:

The board (~~((of prison terms and paroles))~~) may meet and transact business in panels. Each board panel shall consist of at least two members of the board. In all matters concerning the internal affairs of the board and policy-making decisions, a majority of the full board must concur in such matters. The chairman of the board with the consent of a majority of the board may designate any two members to exercise all the powers and duties of the board in connection with any hearing before the board. If the two members so designated cannot unanimously agree as to the disposition of the hearing assigned to them, such hearing shall (~~((not))~~) be reheard by the full board. All actions of the full board shall be by concurrence of a majority of the board members.

Sec. 6. Section 24, chapter 137, Laws of 1981 as last amended by section 1, chapter 279, Laws of 1985 and RCW 9.95.009 are each amended to read as follows:

(1) On July 1, (~~((1988))~~) 1986, the board of prison terms and paroles shall (~~((cease to exist. Prior to that time,))~~) be redesignated as the indeterminate sentencing review board. The board's membership shall be reduced as follows: ((a)) On July 1, 1986, ((the board shall be reduced to five members. This)) and on July 1st of each year until 1992, the number of board members shall be reduced in a manner commensurate with the board's remaining workload as determined by the office of financial management based upon its population forecast for the indeterminate sentencing system and in conjunction with the budget process. To meet the statutory obligations of the indeterminate sentence review board, the number of board members shall not be reduced to fewer than three members, although the office of financial management may designate some or all members as part-time members and specify the extent to which they shall be less than full-time members. Any reduction shall take place by the expiration, on that date, of the ((two)) term or terms having the least time left to serve. ((b)) On July 1, 1987, the board shall be reduced to three members. This reduction shall take place by the expiration, on that date, of the two terms having the least time left to serve.))

(2) ~~((Prior to its expiration and))~~ After July 1, 1984, the board shall continue its functions with respect to persons ~~((incarcerated for))~~ convicted of crimes committed prior to July 1, 1984, and committed to the department of corrections. When making decisions on duration of confinement, and parole release under RCW 9.95.100 and 9.95.110, the board shall consider the ~~((standard ranges and))~~ purposes, standards, and sentencing ranges adopted pursuant to RCW 9.94A.040 and the minimum term recommendations of the sentencing judge and prosecuting attorney, and shall attempt to make decisions reasonably consistent with those ranges ~~((and)), standards, purposes, and recommendations:~~ PROVIDED, That the board and its successors shall give adequate written reasons whenever a minimum term or parole release decisions is made which is outside the sentencing ranges adopted pursuant to 9.94A.040 RCW. In making such decisions, the board and its successors shall consider the different charging and disposition practices under the indeterminate sentencing system.

~~((3)) On July 1, 1988, all documents, records, files, equipment, and other tangible property of the board of prison terms and paroles shall be delivered to the custody of the department of corrections:))~~

NEW SECTION. Sec. 7. A new section is added to chapter 9.95 RCW to read as follows:

When the court commits a convicted person to the department of corrections on or after July 1, 1986, for an offense committed before July 1, 1984, the court shall, at the time of sentencing or revocation of probation, fix the minimum term. The term so fixed shall not exceed the maximum sentence provided by law for the offense of which the person is convicted.

The court shall attempt to set the minimum term reasonably consistent with the purposes, standards, and sentencing ranges adopted under RCW 9.94A.040, but the court is subject to the same limitations as those placed on the board under RCW 9.92.090, 9.95.040 (1) through (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The court's minimum term decision is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986.

Thereafter, the expiration of the minimum term set by the court minus any time credits earned under RCW 9.95.070 and 9.95.110 constitutes the parole eligibility review date, at which time the board may consider the convicted person for parole under RCW 9.95.100 and 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the board's authority to reduce or increase the minimum term, once set by the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080, 9.95.100, 9.95.115, or 9.95.125.

Sec. 8. Section 1, chapter 138, Laws of 1961 and RCW 9.95.015 are each amended to read as follows:

In every criminal case wherein conviction would require the board ~~((of prison terms and paroles))~~ to determine the duration of confinement, or the

court to make such determination for persons committed after July 1, 1986, for crimes committed before July 1, 1984, and wherein there has been an allegation and evidence establishing that the accused was armed with a deadly weapon at the time of the commission of the crime, the court shall make a finding of fact of whether or not the accused was armed with a deadly weapon, as defined by RCW 9.95.040, at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it find the defendant guilty, also find a special verdict as to whether or not the defendant was armed with a deadly weapon, as defined in RCW 9.95.040, at the time of the commission of the crime.

Sec. 9. Section 5, chapter 133, Laws of 1955 as last amended by section 2, chapter 63, Laws of 1975-'76 2nd ex. sess. and RCW 9.95.040 are each amended to read as follows:

The board shall fix the duration of confinement for persons committed by the court before July 1, 1986, for crimes committed before July 1, 1984. Within six months after the admission of ((a)) the convicted person to the penitentiary, reformatory, or such other state penal institution as may hereafter be established, the board ((of prison terms and paroles)) shall fix the duration of his confinement. The term of imprisonment so fixed shall not exceed the maximum provided by law for the offense of which he was convicted or the maximum fixed by the court where the law does not provide for a maximum term.

The following limitations are placed on the board ((of prison terms and paroles)) or the court for persons committed to prison on or after July 1, 1986, for crimes committed before July 1, 1984, with regard to fixing the duration of confinement in certain cases, notwithstanding any provisions of law specifying a lesser sentence((-to-wit)):

(1) For a person not previously convicted of a felony but armed with a deadly weapon at the time of the commission of his offense, the duration of confinement shall not be fixed at less than five years.

(2) For a person previously convicted of a felony either in this state or elsewhere and who was armed with a deadly weapon at the time of the commission of his offense, the duration of confinement shall not be fixed at less than seven and one-half years.

The words "deadly weapon," as used in this section include, but are not limited to, any instrument known as a blackjack, sling shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than three inches, any razor with an unguarded blade, ((and)) any metal pipe or bar used or intended to be used as a club, any explosive, and any weapon containing poisonous or injurious gas.

(3) For a person convicted of being an habitual criminal within the meaning of the statute which provides for mandatory life imprisonment for such habitual criminals, the duration of confinement shall not be fixed at

less than fifteen years. The board shall retain jurisdiction over such convicted person throughout his natural life unless the governor by appropriate executive action orders otherwise.

(4) Any person convicted of embezzling funds from any institution of public deposit of which he was an officer or stockholder, the duration of confinement shall be fixed at not less than five years.

Except when an inmate of the reformatory, penitentiary, or such other penal institution as may hereafter be established(;) has been convicted of murder in the first or second degree, the board may parole an inmate prior to the expiration of a mandatory minimum term, provided such inmate has demonstrated a meritorious effort in rehabilitation and at least two-thirds of the board members concur in such action: PROVIDED, That any inmate who has a mandatory minimum term and is paroled prior to the expiration of such term according to the provisions of this chapter shall not receive a conditional release from supervision while on parole until after the mandatory minimum term has expired.

Sec. 10. Section 1, chapter 67, Laws of 1972 ex. sess. as amended by section 1, chapter 196, Laws of 1983 and RCW 9.95.052 are each amended to read as follows:

At any time after the board (~~(of prison terms and paroles)~~) (or the court after July 1, 1986) has determined the minimum term of confinement of any person subject to confinement in a state correctional institution, the board may request the superintendent of such correctional institution to conduct a full review of such person's prospects for rehabilitation and report to the board the facts of such review and the resulting findings. Upon the basis of such report and such other information and investigation that the board deems appropriate, the board may redetermine and refix such convicted person's minimum term of confinement whether the term was set by the board or the court.

The board shall not reduce a person's minimum term of confinement unless the board has received from the department of corrections all institutional conduct reports relating to the person.

NEW SECTION. Sec. 11. A new section is added to chapter 9.95 RCW to read as follows:

The board shall cause to be prepared criteria for duration of confinement, release on parole, and length of parole for persons committed to prison for crimes committed before July 1, 1984.

The proposed criteria should take into consideration RCW 9.95.009(2). Before submission to the governor, the board shall solicit comments and review on their proposed criteria for parole release. These proposed criteria shall be submitted for consideration by the 1987 legislature.

NEW SECTION. Sec. 12. A new section is added to chapter 9.95 RCW to read as follows:

(1) The indeterminate sentencing review board shall cease to exist on June 30, 1992, and all of its powers, duties, and functions with respect to persons convicted of crimes committed before July 1, 1984, shall be transferred to the superior courts of the state of Washington. Prior to June 30, 1992, the board shall review each inmate and prepare a report for the superior courts. This report shall include a recommendation regarding the offender's suitability for parole and appropriate parole conditions. The sentencing judge or his or her successor in the county of conviction shall thereafter have full jurisdiction and authority over such offenders. These duties may be delegated to commissioners. Actions taken by commissioners shall be in the form of a report and recommendation to the sentencing judge or his or her successors who have sole authority to determine duration of confinement or parole release.

(2) The indeterminate sentence review board, Washington association of prosecuting attorneys, Washington defender association, department of corrections, administrator for the courts, and office of financial management shall prepare an implementation plan to accomplish transfer of the board's powers, duties, and functions to the superior courts of the state of Washington. The plan shall include a detailed fiscal analysis and recommended formulas and procedures for the reimbursement of costs to local governments. This plan shall be presented to the 1990 legislature.

(3) On July 1, 1992, all documents, records, files, equipment, and other tangible property of the indeterminate sentencing review board shall be transferred to the department of corrections. The department of corrections shall assist the judiciary in fulfilling its responsibilities under this chapter, including the preparation of written recommendations.

(4) On July 1, 1992, references to the "board" or "the indeterminate sentence review board" contained in this chapter, chapters 7.68, 9.95, 9.96, 71.06, and 72.04A RCW, and RCW 9A.44.045 and 72.68.031 are deemed to refer to the superior court of the state of Washington that originally sentenced the offender to prison.

NEW SECTION. Sec. 13. A new section is added to chapter 9.95 RCW to read as follows:

It is the intent of the legislature that costs incurred by the counties of the state of Washington as a result of the transfer of the functions, duties, and powers of the indeterminate sentencing review board on July 1, 1992, to the superior courts of the state of Washington shall be reimbursed to the counties by the state of Washington. The 1990 legislature shall consider the recommended formulas and procedures for reimbursement presented in the implementation plan prepared by the indeterminate sentencing review board, administrator for the courts, Washington association of prosecuting attorneys, Washington defender association, department of corrections, and office of financial management.

NEW SECTION. Sec. 14. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1992:

- (1) Section 1 of this 1986 act (uncodified);
- (2) Section 1, chapter 114, Laws of 1935, section 1, chapter 47, Laws of 1947, section 2 of this 1986 act and RCW 9.95.001;
- (3) Section 9, chapter 340, Laws of 1955, section 1, chapter 32, Laws of 1959, section 9, chapter 98, Laws of 1969, section 8, chapter 34, Laws of 1975-'76 2nd ex. sess., section 3 of this 1986 act and RCW 9.95.003;
- (4) Section 10, chapter 340, Laws of 1955, section 2, chapter 32, Laws of 1959, section 4 of this 1986 act and RCW 9.95.005;
- (5) Section 3, chapter 32, Laws of 1959, section 1, chapter 63, Laws of 1975-'76 2nd ex. sess., section 5 of this 1986 act and RCW 9.95.007;
- (6) Section 24, chapter 137, Laws of 1981, section 8, chapter 192, Laws of 1982, section 1, chapter 279, Laws of 1985, section 6 of this 1986 act and RCW 9.95.009;
- (7) Section 7 of this 1986 act and RCW 9.95.—;
- (8) Section 1, chapter 138, Laws of 1961, section 8 of this 1986 act and RCW 9.95.015; and
- (9) Section 11 of this 1986 act and RCW 9.95.—.

NEW SECTION. Sec. 15. Section 39, chapter 137, Laws of 1981 (uncodified) is repealed.

NEW SECTION. Sec. 16. Sections 1 through 13 of this act shall take effect July 1, 1986.

NEW SECTION. Sec. 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 8, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor April 2, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 2, 1986.

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

"I am returning herewith, without my approval as to section 3 in part of Substitute House Bill No. 1400, entitled:

"AN ACT Relating to indeterminate sentencing."

This bill makes a number of changes relative to the Board of Prison Terms and Paroles, including its redesignation as the Indeterminate Sentencing Review Board. I am supportive of the bill.

However, one sentence in section 3 appears to be an anomaly and reads as follows: "However, the Governor may request nominations of qualified persons when filling vacancies in the Board after July 1, 1987." I have vetoed this sentence out of section 3 of the bill because its meaning is not clear. At the present time I do request nominations of qualified people when filling vacancies on the Board and the direction to start doing this after July 1, 1987, does not make sense. Leaving this sentence in

the statute could only lead to confusing interpretations if someone were to question the meaning of this section.

With the exception of section 3 in part, Substitute House Bill No. 1400 is approved."

CHAPTER 225

[House Bill No. 1415]

JAPANESE INTERNMENT—REDRESS OF CIVIL RIGHTS RESTRICTIONS— MUNICIPALITIES

AN ACT Relating to redress of civil rights restrictions resulting from federal Executive Order 9066; adding new sections to chapter 41.04 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The dismissal or termination of various municipal employees during World War II resulted from the promulgation of federal Executive Order 9066 which was based mainly on fear and suspicion rather than on factual justification. It is fair and just that redress be made to those employees who were terminated from municipal employment during the wartime years because of these circumstances. The legislature therefore finds that equity and fairness will be served by authorizing municipalities to accept claims for salary and other employment related losses suffered by the municipal employees directly affected and to pay the claims subject to the provisions of this chapter.

NEW SECTION. Sec. 2. A municipality may by ordinance or resolution provide for redress to any municipal employee or the surviving spouse of a municipal employee who, due to the promulgation of federal Executive Order 9066, was dismissed, terminated from a temporary position, or rejected during the person's probationary period, or who voluntarily resigned in lieu of dismissal from municipal employment, and who incurred salary and other employment related losses as a result thereof during the years 1942 through 1947.

NEW SECTION. Sec. 3. Sections 2 through 5 of this act do not require a municipality to adopt an ordinance or resolution providing for redress of salary and other employment related losses.

NEW SECTION. Sec. 4. Under the system of redress authorized under sections 2 through 5 of this act:

(1) A municipality may determine in its sole discretion the monetary amount of redress for salary and other employment related losses, which may not exceed five thousand dollars for any undivided claim.

(2) If a municipality adopts an ordinance or resolution providing for redress of salary and other employment related losses, it has no obligation to notify directly any person of possible eligibility for redress of salary and other employment related losses.

NEW SECTION. Sec. 5. For the purposes of this chapter, "municipality" means a city, town, county, special purpose district, municipal corporation, quasi-municipal corporation, or political subdivision of the state of Washington. For the purposes of this chapter, a "municipal employee" means an employee of a municipality.

NEW SECTION. Sec. 6. Sections 2 through 5 of this act are each added to chapter 41.04 RCW.

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 House February 15, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 2, 1986.

Filed in Office of Secretary of State April 2, 1986.

CHAPTER 226

[Substitute House Bill No. 1846]

WAREHOUSES—EXCISE TAXATION

AN ACT Relating to excise taxation of warehouses; amending RCW 82.16.010 and 82.04.280; and providing an effective date.

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

Sec. 1. Section 82.16.010, chapter 15, Laws of 1961 as last amended by section 32, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.16.010 are each amended to read as follows:

For the purposes of this chapter, unless otherwise required by the context:

(1) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any business herein defined as an urban transportation business.

(2) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business.

(3) "Railroad car business" means the business of renting, leasing or operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business.

(4) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale.

(5) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale.

(6) "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, ((warehouse;)) 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. 2. Section 2, chapter 8, Laws of 1970 ex. sess. as last amended by section 1, chapter 132, Laws of 1983 and RCW 82.04.280 are each amended to read as follows:

Upon every person engaging within this state in the business of: (1) Printing, and of publishing newspapers, periodicals or magazines; (2) building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (3) extracting for hire or processing for hire; (4) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (5) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of RCW 48.05.310; (6) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (7) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6), as now or hereafter amended; as to such

persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of forty-four one hundredths of one percent.

As used in this section, "cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

As used in this section, "storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1986.

Passed the House February 14, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 227

[Substitute House Bill No. 1839]

BOARD OF NATURAL RESOURCES—MEMBERSHIP

AN ACT Relating to the board of natural resources; and amending RCW 43.30.040 and 43.30.150.

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

Sec. 1. Section 43.30.040, chapter 8, Laws of 1965 as amended by section 9, chapter 57, Laws of 1979 ex. sess. and RCW 43.30.040 are each amended to read as follows:

The board shall consist of ~~((five))~~ six members: The governor or the governor's designee, the superintendent of public instruction, the commissioner of public lands, the dean of the college of forest resources of the University of Washington ~~((and))~~, the dean of the college of agriculture of Washington State University, and a representative of those counties that contain state forest lands acquired or transferred under chapter 76.12 RCW.

The county representative shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under chapter 76.12 RCW. In the selection of the county representative,

each participating county shall have one vote. The Washington state association of counties shall conduct a meeting for the purpose of making the selection and shall notify the board of the selection. The county representative shall be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986.

Sec. 2. Section 43.30.150, chapter 8, Laws of 1965 as amended by section 107, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.30.150 are each amended to read as follows:

The board shall:

(1) Perform all the duties relating to appraisal, appeal, approval and hearing functions heretofore performed by the board of state land commissioners, the state forest board and the capitol committee to the extent such functions are transferred to the department;

(2) Establish policies to insure that the acquisition, management and disposition of all lands and resources within the department's jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources consistent with laws applicable thereto;

(3) Constitute the board of appraisers provided for in Article 16, section 2 of the state Constitution;

(4) Constitute the commission on harbor lines provided for in Article 15, section 1 of the state Constitution as amended;

(5) Hold regular monthly meetings at such times as it may determine, and such special meetings as may be called by the chairman or majority of the board membership upon written notice to all members thereof: PROVIDED, That the board may dispense with any regular meetings, except that the board shall not dispense with two consecutive regular meetings;

(6) Adopt and enforce such rules and regulations as may be deemed necessary and proper for carrying out the powers, duties and functions imposed upon it by this chapter;

(7) Employ and fix the compensation of such technical, clerical and other personnel as may be deemed necessary for the performance of its duties;

(8) Appoint such advisory committees as it may deem appropriate to advise and assist it to more effectively discharge its responsibilities. The members of such committees shall receive no compensation, but shall be entitled to reimbursement for travel expenses in attending committee meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended;

(9) Meet and organize within thirty days after March 6, 1957 and on the third Monday of each January following a state general election at which the elected ex officio members of the board are elected. The board shall select its own chairman. The commissioner of public lands shall be the

secretary of the board. The board may select a vice chairman from among its members. In the absence of the chairman and vice chairman at a meeting of the board, the members shall elect a chairman pro tem. No action shall be taken by the board except by the agreement of at least ~~((three))~~ four members. The department and the board shall maintain its principal office at the capital;

(10) Be entitled to reimbursement individually for travel expenses incurred in the discharge of their official duties in accordance with RCW 43-.03.050 and 43.03.060 as now existing or hereafter amended.

Passed the House February 14, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 228

[Substitute House Bill No. 1838]

CAMPAIGN FINANCING DISCLOSURE

AN ACT Relating to campaign financing disclosure; amending RCW 42.17.090 and 42-.17.105; adding a new section to chapter 42.17 RCW; and declaring an emergency.

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

Sec. 1. Section 9, chapter 1, Laws of 1973 as last amended by section 1, chapter 96, Laws of 1983 and RCW 42.17.090 are each amended to read as follows:

(1) Each report required under RCW 42.17.080 (1) and (2), as now or hereafter amended, shall disclose for the period beginning at the end of the period for the last report or, in the case of an initial report, at the time of the first contribution or expenditure, and ending not more than five days prior to the date the report is due:

(a) The funds on hand at the beginning of the period;

(b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign or in the case of a continuing political committee, the current calendar year: PROVIDED, That the income which results from the conducting of a fund-raising activity which has previously been reported in accordance with RCW 42.17.067 may be reported as one lump sum, with the exception of that portion of such income which was received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067: PROVIDED FURTHER, That contributions of less than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one

lump sum so long as the campaign treasurer maintains a separate and private list of the names, addresses, and amounts of each such contributor; PROVIDED FURTHER, That the money value of contributions of postage shall be the face value of such postage;

(c) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, together with the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

(d) The name and address of each political committee from which the reporting committee or candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts, dates, and purpose of all such transfers. Information regarding the following shall be contained in a separate category of the report bearing the title "Transfer of funds": Contributions made from the campaign depository of one candidate to the campaign of another candidate; and contributions received by a candidate, or for the campaign of the candidate, from the campaign depository of another candidate;

(e) All other contributions not otherwise listed or exempted;

(f) The name and address of each person to whom an expenditure was made in the aggregate amount of fifty dollars or more, and the amount, date, and purpose of each such expenditure;

(g) The total sum of expenditures;

(h) The surplus or deficit of contributions over expenditures;

(i) The disposition made in accordance with RCW 42.17.095 of any surplus funds;

(j) Such other information as shall be required by the commission by regulation in conformance with the policies and purposes of this chapter; and

(k) Funds received from a political committee not domiciled in Washington state (~~and~~) or not otherwise required to report under this chapter (a "nonreporting committee"). Such funds shall be forfeited to the state of Washington unless the nonreporting committee or the recipient of such funds has filed or within ten days following such receipt shall file with the commission a statement disclosing: (i) its name and address; (ii) the purposes of the nonreporting committee; (iii) the names, addresses, and titles of its officers or if it has no officers, the names, addresses, and titles of its responsible leaders; (iv) a statement whether the nonreporting committee is a continuing one; (v) the name, office sought, and party affiliation of each candidate in the state of Washington whom the nonreporting committee is supporting, and, if such committee is supporting the entire ticket of any party, the name of the party; (vi) the ballot proposition supported or opposed in the state of Washington, if any, and whether such committee is in favor of or opposed to such proposition; (vii) the name and address of each

person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more contributions in the aggregate of twenty-five dollars or more to the nonreporting committee during the current calendar year, together with the money value and date of such contributions; (viii) the name and address of each person in the state of Washington to whom an expenditure was made by the nonreporting committee on behalf of a candidate or political committee in the aggregate amount of twenty-five dollars or more, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; (ix) such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter. A nonreporting committee incurring an obligation to file additional reports in a calendar year may satisfy the obligation by filing with the commission a letter providing updating or amending information.

(2) The campaign treasurer and the candidate shall certify the correctness of each report.

Sec. 2. Section 1, chapter 176, Laws of 1983 as amended by section 1, chapter 359, Laws of 1985 and RCW 42.17.105 are each amended to read as follows:

(1) Campaign treasurers shall prepare and deliver to the commission a special report regarding any contribution which:

(a) Exceeds five hundred dollars;

(b) Is from a single person or entity;

(c) Is received before a primary or general election; and

(d) Is received: (i) After the period covered by the last report required by RCW 42.17.080 and 42.17.090 to be filed before that primary; or (ii) within twenty-one days preceding that general election.

(2) Any political committee making a contribution which exceeds five hundred dollars shall also prepare and deliver to the commission the special report if the contribution is made before a primary or general election and:

(a) After the period covered by the last report required by RCW 42.17.080 and 42.17.090 to be filed before that primary; or (b) within twenty-one days preceding that general election.

(3) Except as provided in subsection (4), the special report required by this section shall be delivered in written form, including but not limited to mailgram, telegram, or nightletter. The special report required by subsection (1) shall be delivered to the commission within forty-eight hours of the time, or on the first working day after, the contribution is received by the candidate or campaign treasurer. The special report required by subsection (2) of this section and RCW 42.17.175 shall be delivered to the commission, and the candidate or political committee to whom the contribution is made, within twenty-four hours of the time, or on the first working day after, the contribution is made.

(4) The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) if the written form of the report is also mailed to the commission and postmarked within the delivery period established in subsection (3).

(5) The special report shall include at least:

- (a) The amount of the contribution;
- (b) The date of receipt;
- (c) The name and address of the donor;
- (d) The name and address of the recipient; and
- (e) Any other information the commission may by rule require.

(6) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

(7) The commission shall publish daily a summary of the special reports made under this section and RCW 42.17.175.

(8) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for state-wide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a major political party as defined in RCW 29.01.090.

NEW SECTION. Sec. 3. A new section is added to chapter 42.17 RCW to read as follows:

A candidate or political committee receiving a contribution earmarked for the benefit of another candidate or political committee shall, in addition to reporting the contribution as required in RCW 42.17.080 and 42.17.090, notify the candidate or political committee for whose benefit the contribution is earmarked regarding its receipt. Such notice shall be given within two working days of receipt of the contribution. A candidate or political committee for whose benefit a contribution is earmarked shall report such earmarked contribution in a separate category in the reports required by RCW 42.17.080 and 42.17.090 entitled "Earmarked Contributions".

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 229

[Substitute House Bill No. 1827]

SHIPS AND VESSELS—PROPERTY TAXATION

AN ACT Relating to the property taxation of ships and vessels; amending RCW 84.36-.080 and 84.08.200; adding new sections to chapter 84.40 RCW; creating a new section; and recodifying RCW 84.08.200.

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

Sec. 1. Section 84.36.080, chapter 15, Laws of 1961 as last amended by section 51, chapter 3, Laws of 1983 2nd ex. sess. and RCW 84.36.080 are each amended to read as follows:

(1) All ships and vessels which are exempt from excise tax under subsection (2) of RCW 82.49.020 and subsection (10) of RCW 88.02.030 shall be and are hereby made exempt from all ad valorem taxes, except taxes levied for any state purpose.

(2) All ships and vessels listed in the state or federal register of historical places are exempt from all ad valorem taxes.

NEW SECTION. Sec. 2. A new section is added to chapter 84.40 RCW to read as follows:

(1) As used in this section, "apportionable vessel" means a ship or vessel, other than one operated by a steamboat company as defined in RCW 84.12.200, which is:

- (a) Engaged in interstate commerce;
- (b) Engaged in foreign commerce; and/or
- (c) Engaged exclusively in fishing, tendering, harvesting, and/or processing seafood products on the high seas or waters under the jurisdiction of other states.

(2) The value of each apportionable vessel shall be apportioned to this state based on the number of days or fractions of days that the vessel is within this state during the preceding calendar year: PROVIDED, That if the total number of days the vessel is within the limits of the state does not exceed one hundred twenty for the preceding calendar year, no value shall be apportioned to this state.

(3) Days during which an apportionable vessel is in the state exclusively for one or more of the following purposes shall not be considered as days within this state, if the length of time is reasonable for the purpose:

- (a) Undergoing repair or alteration;
- (b) Taking on or discharging cargo, passengers, or supplies; and
- (c) Serving as a tug for a vessel under (a) or (b) of this subsection.

(4) Days during which an apportionable vessel leaves this state only while navigating the high seas in order to travel between points in this state shall be considered as days within this state.

Sec. 3. Section 5, chapter 250, Laws of 1984 and RCW 84.08.200 are each amended to read as follows:

(1) Every individual, corporation, association, partnership, trust, and estate shall list with the department of revenue all ships and vessels which are subject to their ownership, possession, or control and which are ~~((subject to ad valorem taxation under RCW 84.36.080))~~ not entirely exempt from property taxation, and such listing shall be subject to the same requirements, penalties, and liens provided in this chapter and chapter~~((s 84.40 and))~~ 84.60 RCW for all other personal property in the same manner as provided therein.

(2) The department shall assess all ships and vessels and shall certify to the respective county assessors the equalized values thereof, subject to the same rules as other state-assessed properties in accordance with RCW 84.12.370 and 84.16.130 and chapter 84.48 RCW.

(3) Any ship or vessel owner disputing the assessment under this section shall have the same rights of review as any other vessel owner subject to the excise tax contained in chapter 82.49 RCW in accordance with RCW 82.49.060.

NEW SECTION. Sec. 4. This act shall be effective for taxes levied for collection in 1987, and thereafter.

NEW SECTION. Sec. 5. RCW 84.08.200, as amended by section 3 of this act, shall be recodified in chapter 84.40 RCW.

Passed the House March 9, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 230

[Substitute House Bill No. 1726] CHARITABLE SOLICITATIONS

AN ACT Relating to charitable solicitations; amending RCW 19.09.010, 19.09.020, 19.09.065, 19.09.075, 19.09.079, 19.09.085, 19.09.095, 19.09.100, 19.09.200, 19.09.210, 19.09.230, 19.09.240, 19.09.190, and 19.09.275; adding new sections to chapter 19.09 RCW; repealing RCW 19.09.030, 19.09.045, 19.09.050, and 19.09.069; prescribing penalties; making an appropriation; and providing an effective date.

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

Sec. 1. Section 1, chapter 13, Laws of 1973 1st ex. sess. and RCW 19.09.010 are each amended to read as follows:

The purpose of this chapter is to ~~((protect the general public and public charity in the state of Washington, to require full public disclosure of facts))~~ provide citizens of the state of Washington with information relating to persons and organizations who solicit funds from the public for public charitable purposes~~((, the purposes for which such funds are solicited, and~~

~~their actual uses, and)) in order to prevent (1) deceptive and dishonest ((statements and conduct in the solicitation of)) practices in the conduct of soliciting funds for or in the name of charity; and (2) improper use of contributions intended for charitable purposes.~~

Sec. 2. Section 2, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 265, Laws of 1983 and RCW 19.09.020 are each amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) A "bona fide officer or employee" of a charitable organization is one (a) whose conduct is subject to direct control by such organization ((and)); (b) who does not act in the manner of an independent contractor in his or her relation with the organization; and (c) whose compensation is not computed on funds raised or to be raised.

(2) "Charitable organization" means~~((: (a) Any benevolent, philanthropic, patriotic, eleemosynary, education, social, recreation, fraternal organization, or any other person having or purporting to have a charitable nature; and (b) which solicits or solicits and collects contributions for any charitable purpose. "Charitable" shall have its common law meaning unless the context in which it is used clearly requires a narrower or a broader meaning))~~ any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable activity. "Charitable" (a) is not limited to its common law meaning unless the context clearly requires a narrower meaning; (b) does not include religious or political activities; and (c) includes, but is not limited to, educational, recreational, social, patriotic, legal defense, benevolent, or health causes.

(3) "Compensation" means salaries, wages, fees, commissions, or any other remuneration or valuable consideration.

(4) "Contribution" means the donation, promise or grant, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights less the reasonable purchase price to the charitable organization of any such tangible merchandise, rights, or services resold by the organization, and not merely that portion of the purchase price to be applied to a charitable purpose.

~~((4) "Compensation" means salaries, wages, fees, commissions, or any other remuneration or valuable consideration:))~~

(5) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation ((for a direct gift or conducting a sale or benefit affair;)). Cost of solicitation

~~((staff))~~ does not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as a part of its fund raising activities.

~~(6) (~~"Direct gift"~~ shall mean and include an outright contribution of food, clothing, money, credit, property, financial assistance or other thing of value to be used for a charitable or religious purpose and for which the donor receives no consideration or thing of value in return.~~

~~(7))~~ "Entity" means an individual, organization, group, association, partnership, corporation, agency or unit of state government, or any combination thereof.

(7) "General public" or "public" means any individual located in Washington state without a membership or other official relationship with a charitable organization before a solicitation by the charitable organization.

(8) "Independent fund raiser" or "independent fund-raising entity" means any entity that for compensation or other consideration, plans, conducts, manages, or administers any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or charitable or religious purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting contributions for such purposes, or the business of planning, conducting, managing, or carrying on any drive or campaign in this state for such solicitations. However, a nonprofit fund raiser or bona fide officer or other employee of a charitable organization shall not be deemed an independent fund raiser.

(9) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" ~~((staff))~~ does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

~~((8))~~ (10) "Nonprofit fund raiser" means an entity registered as a nonprofit corporation under Title 24 RCW, or any entity exempt from federal income tax under section 501(c) of the Internal Revenue Code, that solicits and receives contributions exceeding five thousand dollars in any accounting year on behalf of a charitable or religious organization other than the nonprofit corporation.

(11) "Other employee" of a charitable organization means any person (a) whose conduct is subject to direct control by such organization; (b) who does not act in the manner of any independent contractor in his or her relation with the organization; and (c) who is not engaged in the business of or held out to persons in this state as independently engaged in the business of soliciting contributions for charitable or religious purposes.

(12) "Parent organization" means that part of a charitable organization ~~((which))~~ that coordinates, supervises, or exercises control over policy,

fund raising, or expenditures, or assists or advises one or more chapters, branches, or affiliates of such organization in the state of Washington.

~~((9) "Person" means an individual, organization, group, association, partnership, corporation, or any combination thereof.~~

~~(10) "Professional fund-raiser" means any person who, for compensation or other consideration, plans, conducts, manages, or advises concerning any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or charitable purpose; or who engages in the business of or holds himself out to persons in this state as independently engaged in the business of soliciting contributions for such purposes, or the business of planning, conducting, managing, or carrying on any drive or campaign in this state for such solicitations. PROVIDED, That the following persons shall not be deemed professional fund raisers: (a) Any bona fide officer or employee of a charitable organization which maintains a permanent establishment in the state of Washington; whose salary or other compensation is not computed on funds raised or to be raised; (b) a clergyman of a religious corporation exempt under the provisions of RCW 19.09.030.~~

~~(11) A "professional solicitor" means any person other than a professional fund-raiser who is employed or retained for compensation by any person or charitable organization to solicit contributions for charitable purposes from persons in this state, but shall not include any bona fide officer or employee of a registered charitable organization.~~

~~(12) "Sale and benefit affair" shall mean and include, but not be limited to, athletic or sports event, bazaar, benefit, campaign, circus, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, social gathering, theater, or variety show which the public is requested to patronize or attend or to which the public is requested to make a contribution for any charitable or religious purpose connected therewith: PROVIDED, That bingo activities, raffles, and amusement games conducted pursuant to the provisions of chapter 9.46 RCW and applicable rules of the Washington state gambling commission are specifically excluded and shall not be deemed a solicitation within the provisions of this chapter.)~~

~~(13) "Political activities" means those activities subject to chapter 42-.17 RCW or the Federal Elections Campaign Act of 1971, as amended.~~

~~(14) "Religious activities" means those religious, evangelical, or missionary activities under the direction of a religious organization duly organized and operating in good faith that are entitled to receive a declaration of current tax exempt status for religious purposes from the United States government and the duly organized branches or chapters of those organizations.~~

~~(15) "Secretary" means the secretary of state.~~

~~((14))~~ (16) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(a) Any appeal is made for any charitable purpose; or

(b) The name of any charitable organization is used as an inducement for consummating the sale; or

(c) Any statement is made (~~which~~) that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission are specifically excluded and shall not be deemed a solicitation under this chapter.

Sec. 3. Section 4, chapter 265, Laws of 1983 and RCW 19.09.065 are each amended to read as follows:

(1) All charitable organizations, independent fund raisers, and non-profit fund raisers, as defined in RCW 19.09.020(~~(; unless exempt under RCW 19.09.030)~~), shall register with the secretary.

(2) Failure to register as required by this chapter is a violation of this chapter.

(3) Information provided to the secretary pursuant to this chapter shall be a public record.

(4) Registration shall not be considered or be represented as an endorsement by the secretary or the state of Washington.

Sec. 4. Section 5, chapter 265, Laws of 1983 and RCW 19.09.075 are each amended to read as follows:

An application for registration as a charitable organization shall ~~((contain))~~ be submitted in the form prescribed by the secretary, containing, but not limited to, the following:

(1) The name, address, and telephone number of the charitable organization;

(2) The name(s) under which the organization will solicit contributions;

(3) The name, address, and telephone number of the ~~((president and treasurer, or comparable))~~ officers(~~(;)~~) of the organization;

(4) The names of the three officers or employees receiving the greatest amount of compensation from the organization;

(5) The purpose of the ((solicitations)) organization;

~~((5))~~ (6) (a) Whether the organization is exempt from federal income tax; and

(b) Whether the financial affairs of the organization are audited by an independent entity and, if so, the name and address of the entity;

(7) A solicitation ((history)) report of the organization for the preceding accounting year including:

(a) The number and types of solicitations ((campaigns over the past three years)) conducted;

(b) The total ((amount of money applied to the costs of the solicitations over the past three years;

(c) The total amount of money dispersed for charitable purposes over the past three years;

(d) The number of solicitation campaigns reported under subsection (5)(a) of this section for which the organization used a professional fund raiser; and

(6)) dollar value of support received from solicitations and from all other sources received on behalf of the charitable purpose of the charitable organization;

(c) The total amount of money applied to charitable purposes, fund raising costs, and other expenses;

(d) The name, address, and telephone number of any independent fund raiser used by the organization; and

(8) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305.

The requirements of subsection ~~((s-(5)(b)))~~ (7) (b) and (c) of this section may be satisfied by the submission of ~~((an independent certified audit))~~ such federal tax forms as may be approved by rule of the secretary.

The application shall be ~~((submitted with a fifteen-dollar filing fee and shall be))~~ signed by the president, treasurer, or comparable officer of the organization and be submitted with a nonrefundable, ten-dollar filing fee. If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.

NEW SECTION. Sec. 5. A new section is added to chapter 19.09 RCW to read as follows:

The application requirements of RCW 19.09.075 do not apply to the following:

(1) Any charitable organization raising less than five thousand dollars in any accounting year when all the activities of the organization, including all fund raising activities, are carried on by persons who are unpaid for their services and no part of the charitable organization's assets or income inures to the benefit of or is paid to any officer or member of the organization;

(2) Any charitable organization located outside of the state of Washington if the organization files the following with the secretary:

(a) The registration documents required under the charitable solicitation laws of the state in which the charitable organization is located;

(b) The registration required under the charitable solicitation laws of the state of California and the state of New York; and

(c) Such federal income tax forms as may be required by rule of the secretary.

NEW SECTION. Sec. 6. A new section is added to chapter 19.09 RCW to read as follows:

An application for registration as a nonprofit fund raiser shall be submitted in the form prescribed by the secretary and shall contain the following:

- (1) The name, address, and telephone number of the organization;
- (2) The name(s), address(es), and the telephone number(s) of the officers of the organization;
- (3) The names of the three officers or employees receiving the greatest amount of compensation from the organization;
- (4) Whether the financial affairs of the organization are audited by an independent entity, and, if so, the name and address of the entity; and
- (5) A solicitation report of the organization for the preceding accounting year, including:
 - (a) The number and types of fund raising activities conducted on behalf of charitable organizations;
 - (b) The names of charitable organizations on whose behalf fund raising activities were conducted;
 - (c) The total value of contributions received on behalf of charitable organizations; and
 - (d) The amount of money disbursed to charitable organizations for charitable purposes.

The application shall be signed by the president, treasurer, or comparable officer of the organization and be submitted with a nonrefundable, ten dollar filing fee. If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.

Sec. 7. Section 15, chapter 265, Laws of 1983 and RCW 19.09.079 are each amended to read as follows:

An application for registration as ~~((a professional))~~ an independent fund raiser shall ((contain)) be submitted in the form prescribed by the secretary, containing, but not limited to, the following:

- (1) The name, address, and telephone number of the ~~((professional fund raiser))~~ independent fund-raising entity;
- (2) ~~((A solicitation history of the professional fund raiser for the past three years including:~~
 - ~~(a) Number of solicitation campaigns;~~
 - ~~(b) Names of charitable organizations for whom fund raising has been performed; and~~
 - ~~(c) A list of the states in which fund raising has been performed; and~~
- ~~((3))~~ The name(s), address(es), and telephone number(s) of the owner(s) and principal officer(s) of the independent fund-raising entity;

(3) The name, address, and telephone number of the individual responsible for the activities of the independent fund-raising entity in Washington;

(4) A list of states and Canadian provinces in which fund raising has been performed;

(5) The names of the three officers or employees receiving the greatest amount of compensation from the independent fund-raising entity;

(6) Whether the financial affairs of the independent fund raiser are audited by an independent entity, and, if so, the name and address of the entity;

(7) A solicitation report of the independent fund-raising entity for the preceding accounting year, including:

(a) The number and types of fund raising services conducted;

(b) The names of charitable organizations required to register under RCW 19.09.065 for whom fund raising services have been performed;

(c) The total value of contributions received on behalf of charitable organizations required to register under RCW 19.09.065 by the independent fund raiser, affiliate of the independent fund raiser, or any entity retained by the independent fund raiser; and

(d) The amount of money disbursed to charitable organizations for charitable purposes, net of fund raising costs paid by the charitable organization as stipulated in any agreement between charitable organizations and the independent fund raiser;

(8) The name, address, and telephone number of any independent fund raiser that was retained in the conduct of providing fund raising services; and

(9) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305.

The application shall be signed by an officer or owner of the independent fund raiser and shall be submitted with a ((fifteen-dollar)) nonrefundable, fifty-dollar filing fee ((and shall be signed by the professional fund raiser)). If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.

Sec. 8. Section 8, chapter 265, Laws of 1983 and RCW 19.09.085 are each amended to read as follows:

(1) Registration under this chapter shall be effective for ((two years)) one year, or the end of the organization's accounting year, whichever comes first.

(2) ((Persons and charitable organizations)) Reregistration required under RCW 19.09.075 and section 6 of this act shall be received by the secretary no later than the fifteenth day of the fifth month after the organization's accounting period ends.

(3) Reregistration required under RCW 19.09.079 shall be received by the secretary no later than the fifteenth day of the third month after the organization's accounting period ends.

(4) Entities required to register under this chapter shall file a notice of change of information within thirty days of any change in the information contained in RCW 19.09.075 (1) through ~~((4))~~ (6), 19.09.079 (1) through (6), or section 6 (1) through (4) of this act.

~~((3))~~ (5) The secretary may notify ~~((persons and charitable organizations))~~ entities registered under this chapter of the need to reregister upon the expiration of their current registration. The notification shall be by mail, sent at least sixty days prior to the expiration of their current registration.

Sec. 9. Section 6, chapter 265, Laws of 1983 and RCW 19.09.095 are each amended to read as follows:

~~((If any chapter, branch, affiliate, or area division of))~~ A charitable organization that is supervised and controlled by a superior or parent organization ~~((which))~~ that is incorporated, qualified to do business, or is doing business within this state~~((, such chapter, branch, affiliate, or area division))~~ shall not be required to register under RCW 19.09.065 if the superior or parent organization files an application, on behalf of its subsidiary, in addition to or as a part of its own application. If an application has been filed by a superior or parent organization, on behalf of the subsidiary organization, the superior or parent organization ~~((need not include the financial statement information as part of its financial report for any chapter, branch, or affiliate which solicits and collects less than five hundred dollars during its fiscal year, providing all such fund raising is done by persons who are unpaid for such services. For those chapters, branches, or affiliates which solicit, collect, or expend between five hundred dollars and five thousand dollars during their fiscal year, the superior or parent organization shall report such financial information either separately or in consolidated form. For those chapters, branches, or affiliates which solicit, collect, or expend in excess of five thousand dollars during their fiscal year, the superior or parent organization shall set forth such financial information separately, in addition to including such information in consolidated form))~~ shall (1) report financial information either separately or in consolidated form for its subsidiary organization(s), and (2) identify the subsidiary organization(s) on whose behalf the application is being submitted, indicating which such organization(s), if any, collected or expended five thousand dollars or more during their fiscal year.

NEW SECTION. Sec. 10. A new section is added to chapter 19.09 RCW to read as follows:

Before contracting for any fund raising service or activity, the charitable organization and independent fund raiser shall complete a registration form. The registration shall be filed by the charitable organization with the secretary, in the form prescribed by the secretary, within five working days

of the execution of the contract containing, but not limited to the following information:

- (1) The name and registration number of the independent fund raiser;
- (2) The name of the surety or sureties issuing the bond required by RCW 19.09.190, the aggregate amount of such bond or bonds, the bond number(s), original effective date(s), and termination date(s);
- (3) The name and registration number of the charitable organization;
- (4) The name of the representative of the independent fund raiser who will be responsible for the conduct of the fund raising;
- (5) The type(s) of service(s) to be provided by the independent fund raiser;
- (6) The dates such service(s) will begin and end;
- (7) The terms of the agreement between the charitable organization and independent fund raiser relating to:
 - (a) Amount or percentages of amounts to inure to the charitable organization;
 - (b) Limitations placed on the maximum amount to be raised by the fund raiser, if the amount to inure to the charitable organization is not stated as a percentage of the amount raised;
 - (c) Costs of fund raising that will be the responsibility of the charitable organization, regardless of whether paid as a direct expense, deducted from the amounts disbursed, or otherwise;
 - (d) The manner in which contributions received directly by the charitable organization, not the result of services provided by the independent fund raiser, will be identified and used in computing the fee owed to the independent fund raiser; and
- (8) The names of any entity to which more than ten percent of the total anticipated fund raising cost is to be paid, and whether any principal officer or owner of the independent fund raiser or relative by blood or marriage thereof is an owner or officer of any such entity.

The registration form shall be submitted with a nonrefundable, five-dollar filing fee and shall be signed by an owner or principal officer of the independent fund raiser and the president, treasurer, or comparable officer of the charitable organization.

Sec. 11. Section 10, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 9, chapter 265, Laws of 1983 and RCW 19.09.100 are each amended to read as follows:

The following conditions apply to solicitations as defined by RCW 19.09.020:

- (1) Each person or organization soliciting charitable contributions shall disclose orally or in writing to each person or organization solicited:
 - (a) The name of the individual making the solicitation;
 - (b) The name of the charitable organization;

(c) The purpose of the solicitation, and the name of the organization that will receive the funds contributed; and

(d) ~~((Upon request, the estimated percentage of the money collected which will be applied to the cost of the solicitation or to the charitable purpose;~~

~~(2)) Whether the charitable organization is or is not properly registered under this chapter, and if registered, that information relating to its financial affairs is available by contacting the office of the secretary of state, giving the secretary's toll-free telephone number, if available.~~

(2) Each person or organization soliciting charitable contributions shall conspicuously disclose in writing to each person or organization solicited:

(a) If the solicitation is conducted by a charitable organization, the percentage relationship between (i) the total amount of money applied to charitable purposes; and (ii) the dollar value of support received from solicitations and from all other sources received on behalf of the charitable purpose of the organization, as contained in the organization's most recent solicitation report filed in accordance with RCW 19.09.075(7);

(b) If the solicitation is conducted by an independent or nonprofit fund raiser, the percentage relationship between (i) the amount of money disbursed to charitable organizations for charitable purposes; and (ii) the total value of contributions received on behalf of charitable organizations by the independent or nonprofit fund raiser, as contained in the fund raiser's most recent solicitation report filed in accordance with RCW 19.09.079(7) or section 6 of this act.

(3) Each person or organization soliciting charitable contributions by telephone shall make the disclosures required by RCW 19.09.100(2) (a) or (b) in writing within five days of the receipt of any contribution. If the person or organization sends any materials to the person or organization solicited before the receipt of any contribution, those materials shall include the disclosures required in RCW 19.09.100(1)(d), and 19.09.100 (2) (a) or (b), whichever is applicable.

(4) Each person or organization soliciting charitable contributions shall not represent orally or in writing that:

(a) The charitable contribution is tax deductible unless the charitable organization for which charitable contributions are being solicited or to which tickets for fund raising events or other services or goods will be donated, has applied for and received from the internal revenue service a letter of determination granting tax deductible status to the charitable organization;

(b) The person soliciting the charitable contribution is a volunteer or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor unless such person is unpaid for his or her services;

(c) The person soliciting the charitable contribution is a member, staffer, helper, or employee of the charitable organization or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor if the person soliciting is employed, contracted, or paid by an independent fund raiser.

(5) If the charitable organization is associated with, or has a name that is similar to, any unit of government each person or organization soliciting contributions shall disclose to each person solicited whether the charitable organization is or is not part of any unit of government and the true nature of its relationship to the unit of government.

(6) A charitable organization shall comply with all local governmental regulations (~~which~~) that apply to soliciting for or on behalf of charitable organizations(;;).

~~((3))~~ (7) The advertising material and the general promotional plan for a solicitation shall not be false, misleading, or deceptive, and shall afford full and fair disclosure(~~(; and)~~).

~~((4))~~ (8) Solicitations shall not be conducted by a charitable organization or independent fund raiser that has, or if a corporation, its officers, directors, or principals have, been convicted of a crime involving solicitations for or on behalf of a charitable organization in this state, the United States, or any other state or foreign country within the past ten years (~~and~~) or has been subject to any permanent injunction or administrative order or judgment(;) under (~~the provisions of~~) RCW 19.86.080 or 19.86.090, involving a violation or violations of (~~the provisions of~~) RCW 19.86.020, within the past ten years, or of restraining a false or misleading promotional plan involving solicitations for charitable organizations.

Failure to comply with subsections (1) through ~~((4))~~ (8) of this section is a violation of this chapter.

Sec. 12. Section 20, chapter 13, Laws of 1973 1st ex. sess. as amended by section 9, chapter 227, Laws of 1982 and RCW 19.09.200 are each amended to read as follows:

Charitable organizations and ~~(professional)~~ independent fund raisers shall maintain accurate, current, and readily available books and records at their usual business locations until at least three years (~~staff~~) have elapsed following the effective period to which they relate.

All contracts between ~~(professional)~~ independent fund raisers and charitable organizations shall be in writing, and true and correct copies of such contracts or records thereof shall be kept on file in the various offices of the charitable organization (~~and/or professional~~) and the independent fund raiser for a three-year period (~~as provided in this section~~). Such records and contracts shall be available for inspection and examination by the attorney general or by the county prosecuting attorney. A copy of such contract or record shall be submitted by the charitable organization or ~~(professional)~~ independent fund raiser, within ten days, following receipt

of a written demand therefor from the attorney general or county prosecutor.

Sec. 13. Section 21, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 10, chapter 265, Laws of 1983 and RCW 19.09.210 are each amended to read as follows:

Upon the request of the attorney general or the county prosecutor, a charitable organization shall submit a financial statement containing, but not limited to, the following information:

(1) The gross amount of the contributions pledged and the gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required.

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to ~~((professional))~~ independent fund raisers ~~((and solicitors))~~.

(5) Copies of any annual or periodic reports furnished by the charitable organization, of its activities during or for the same fiscal period, to its parent organization, subsidiaries, or affiliates, if any.

Sec. 14. Section 23, chapter 13, Laws of 1973 1st ex. sess. as amended by section 11, chapter 227, Laws of 1982 and RCW 19.09.230 are each amended to read as follows:

No charitable organization, ~~((professional))~~ independent fund raiser, or ~~((professional solicitor shall))~~ other entity may knowingly use the name of any other person for the purpose of soliciting contributions from persons in this state without the written consent of such other person ~~((PROVIDED, That))~~. Such consent may be deemed to have been given by anyone who is a director, trustee, other officer, employee, agent, ((professional)) or independent fund raiser((, or professional solicitor)) of the charitable organization.

A person may be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure, or correspondence of the charitable organization or person or if such name is listed or represented to any one who has contributed to, sponsored, or endorsed the charitable organization or person, or its or his activities.

Sec. 15. Section 24, chapter 13, Laws of 1973 1st ex. sess. and RCW 19.09.240 are each amended to read as follows:

No charitable organization, ~~((professional))~~ independent fund raiser, or other person soliciting contributions for or on behalf of a charitable organization ~~((shall))~~ may use a name, symbol, or statement so closely related

or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

Sec. 16. Section 19, chapter 13, Laws of 1973 1st ex. sess. as last amended by section 16, chapter 265, Laws of 1983 and RCW 19.09.190 are each amended to read as follows:

Every (~~(person employed or retained as a professional fund raiser by or for a charitable organization))~~ independent fund raiser who (1) directly or indirectly receives contributions from the public on behalf of any charitable organization; or (2) is compensated based upon funds raised or to be raised, number of solicitations made or to be made, or any other similar method; or (3) incurs or is authorized to incur expenses on behalf of the charitable organization; or (4) has not been registered with the secretary as an independent fund raiser for the preceding accounting year shall execute a surety bond as principal ((in the amount of five thousand dollars)) with one or more sureties whose liability in the aggregate as such sureties will ((at least equal the said sum)) equal at least fifteen thousand dollars. The secretary may, by rule, provide for the reduction and reinstatement of the bond required by this section.

The issuer of the surety bond shall be licensed to do business in this state, and shall promptly notify the secretary when claims or payments are made against the bond. The bond shall be filed with the secretary in the form prescribed by the secretary. The bond shall run to the state and to any person who may have a cause of action against the obligor of said bond for any malfeasance ((or)), misfeasance, or deceptive practice in the conduct of such solicitation.

NEW SECTION. Sec. 17. A new section is added to chapter 19.09 RCW to read as follows:

(1) Any charitable organization, nonprofit fund raiser, or independent fund raiser who, after notification by the secretary, fails to properly register under this chapter by the end of the first business day following the issuance of the notice, is liable for a late filing fee of five dollars per day from the date of the notice until the registration is properly completed and filed. The late filing fee is in addition to any other filing fee provided by this chapter.

(2) The secretary shall notify the attorney general of any entity liable for late filing fees under subsection (1) of this section.

Sec. 18. Section 14, chapter 222, Laws of 1977 ex. sess. as last amended by section 11, chapter 265, Laws of 1983 and RCW 19.09.275 are each amended to read as follows:

Any person who wilfully and knowingly violates any provision of this chapter or who wilfully and knowingly gives false or incorrect information to the secretary, attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report

is verified is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

Any person who (~~wilfully and knowingly~~) violates any provisions of this chapter or who (~~shall wilfully and knowingly~~) gives false or incorrect information to the secretary, attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report is verified, (~~shall be deemed~~) is guilty of a misdemeanor (~~as provided in~~) punishable under chapter 9A.20 RCW.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 13, Laws of 1973 1st ex. sess., section 2, chapter 106, Laws of 1974 ex. sess., section 2, chapter 222, Laws of 1977 ex. sess., section 2, chapter 265, Laws of 1983 and RCW 19.09.030;

(2) Section 3, chapter 265, Laws of 1983 and RCW 19.09.045;

(3) Section 5, chapter 13, Laws of 1973 1st ex. sess., section 13, chapter 265, Laws of 1983 and RCW 19.09.050; and

(4) Section 14, chapter 265, Laws of 1983 and RCW 19.09.069.

NEW SECTION. Sec. 20. To carry out this act, the sum of twelve thousand dollars, or so much thereof as may be necessary, is appropriated to the secretary of state from the general fund for the biennium ending June 30, 1987.

NEW SECTION. Sec. 21. This act shall take effect on January 1, 1987.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 231

[House Bill No. 1851]

MAGNESIUM PRODUCTION—TAXATION OF INGREDIENTS, COMPONENTS, AND CHEMICALS USED IN PROCESSING—CANNING, PRESERVING, AND FREEZING BUSINESS—SALES AND USE TAX

AN ACT Relating to excise taxation of ingredients, components, and chemicals used in processing; amending RCW 82.04.050 and 82.04.190; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and declaring an emergency.

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

Sec. 1. Section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 25, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.050 are each amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all

persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale, or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon, or (e) purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), ((or)) (d), or (e) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsections (2) and (7) and RCW 82.04.290.

(2) The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and also excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also

include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting; (d) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; (e) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), and (e) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

(3) The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities: (a) Amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

(4) The term shall also include the renting or leasing of tangible personal property to consumers.

(5) The term shall also include the providing of telephone service, as defined in RCW 82.04.065, to consumers.

(6) The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

(7) The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority.

Sec. 2. Section 82.04.190, chapter 15, Laws of 1961 as last amended by section 1, chapter 134, Laws of 1985 and RCW 82.04.190 are each amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being

produced for sale or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;

(2) Any person engaged in any business activity taxable under RCW 82.04.290 and any person who purchases, acquires, or uses any telephone service as defined in RCW 82.04.065, other than for resale in the regular course of business;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right of way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United

States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person shall be a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person.

NEW SECTION. Sec. 2. 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 lease amounts paid by a seller/lessee to a lessor after the effective date of this act under a sale/leaseback agreement in respect to property, including equipment and components, used by the seller/lessee primarily in the business of canning, preserving, freezing, or dehydrating fresh fruits, vegetables, and fish, nor to the purchase amount paid by the lessee pursuant to an option to purchase at the end of the lease term: PROVIDED, That the seller/lessee previously paid the tax imposed by this chapter or chapter 82.12 RCW at the time of acquisition of the property, including equipment and components.

NEW SECTION. Sec. 3. A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter shall not apply with respect to lease amounts paid by a seller/lessee to a lessor after the effective date of this act under a sale/leaseback agreement in respect to property, including equipment and components, used by the seller/lessee primarily in the business of canning, preserving, freezing, or dehydrating fresh fruits, vegetables, and fish, nor to the purchase amount paid by the lessee pursuant to an option to purchase at the end of the lease term: PROVIDED, That the seller/lessee previously paid the tax imposed by this chapter or chapter 82.08 RCW at the time of acquisition of the property, including equipment and components.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 232

[Engrossed Senate Bill No. 3278]

HIGHER EDUCATION TUITION AND FEE WAIVER—FOREIGN STUDENTS

AN ACT Relating to institutions of higher education; amending RCW 28B.15.740; adding a new section to chapter 28B.15 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature intends to permit the governing boards of the four-year institutions of higher education to waive tuition and fees for certain students of foreign nations. To the greatest extent possible, students chosen for these waivers and for the institutions' own approved study abroad programs shall reflect the range of socioeconomic and ethnic characteristics of the students' institutions and native countries.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.15 RCW to read as follows:

The boards of regents of the state universities and the boards of trustees of the regional universities and The Evergreen State College may waive the tuition, operating, and services and activities fees for undergraduate or graduate students of foreign nations subject to the following limitations:

(1) No more than the equivalent of one hundred waivers may be awarded to undergraduate or graduate students of foreign nations at each of the two state universities;

(2) No more than the equivalent of twenty waivers may be awarded to undergraduate or graduate students of foreign nations at each of the regional universities and The Evergreen State College;

(3) Priority in the awarding of waivers shall be given to students on academic exchanges or academic special programs sponsored by recognized international educational organizations;

(4) An undergraduate or graduate student of a foreign nation receiving a waiver under this section is not eligible for any other.

The waiver programs under this section, to the greatest extent possible, shall promote reciprocal placements and waivers in foreign nations for Washington residents. The number of waivers awarded by each institution shall not exceed the number of that institution's own students enrolled in approved study programs abroad during the same period.

Sec. 3. Section 1, chapter 262, Laws of 1979 ex. sess. as last amended by section 33, chapter 390, Laws of 1985 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 subsection (2).

(2) 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 section 2 of this 1986 act are not subject to the limitation under this section.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 233

[Substitute Senate Bill No. 3419]

LAND USE-----ADMINISTRATIVE REVIEW OF PRELIMINARY PLATS

AN ACT Relating to land use controls; amending RCW 58.17.140; adding a new section to chapter 58.17 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 58.17 RCW to read as follows:

A county, city, or town may adopt an ordinance providing for the administrative review of a preliminary plat without a public hearing by adopting an ordinance providing for such administrative review. The ordinance may specify a threshold number of lots in a subdivision above which a public hearing must be held, and may specify other factors which necessitate the holding of a public hearing. The administrative review process shall include the following minimum conditions:

(1) The notice requirements of RCW 58.17.090 shall be followed, except that the publication shall be made within ten days of the filing of the application. Additionally, at least ten days after the filing of the application

notice both shall be: (a) Posted on or around the land proposed to be subdivided in at least five conspicuous places designed to attract public awareness of the proposal; and (b) mailed to the owner of each lot or parcel of property located within at least three hundred feet of the site. The applicant shall provide the county, city, or town with a list of such property owners and their addresses. The notice shall include notification that no public hearing will be held on the application, except as provided by this section. The notice shall set out the procedures and time limitations for persons to require a public hearing and make comments.

(2) Any person shall have a period of twenty days from the date of the notice to comment upon the proposed preliminary plat. All comments received shall be provided to the applicant. The applicant has seven days from receipt of the comments to respond thereto.

(3) A public hearing on the proposed subdivision shall be held if any person files a request for a hearing with the county, city, or town within twenty-one days of the publishing of such notice. If such a hearing is requested, notice requirements for the public hearing shall be in conformance with RCW 58.17.090, and the ninety-day period for approval or disapproval of the proposed subdivision provided for in RCW 58.17.140 shall commence with the date of the filing of the request for a public hearing. Any hearing ordered under this subsection shall be conducted by the planning commission or hearings officer as required by county or city ordinance.

(4) On its own initiative within twenty-one days of the filing of the request for approval of the subdivision, the governing body, or a designated employee or official, of the county, city, or town, shall be authorized to cause a public hearing to be held on the proposed subdivision within ninety days of the filing of the request for the subdivision.

(5) If the public hearing is waived as provided in this section, the planning commission or planning agency shall complete the review of the proposed preliminary plat and transmit its recommendation to the legislative body as provided in RCW 58.17.100.

Sec. 2. Section 14, chapter 271, Laws of 1969 ex. sess. as last amended by section 3, chapter 121, Laws of 1983 and RCW 58.17.140 are each amended to read as follows:

Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ninety days from date of filing thereof unless the applicant consents to an extension of such time period or the ninety day limitation is extended to include up to twenty-one days as specified under section 1(3) of this 1986 act: PROVIDED, That if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety day period shall not include the time spent preparing and circulating the environmental impact statement by the local government agency. Final plats and short plats shall be approved, disapproved, or returned to the applicant within thirty days

from the date of filing thereof, unless the applicant consents to an extension of such time period. A final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within three years of the date of preliminary plat approval: **PROVIDED**, That this three-year time period shall retroactively apply to any preliminary plat pending before a city, town, or county as of July 24, 1983, where the authority to proceed with the filing of a final plat has not lapsed under an applicable city, town, or county ordinance containing a shorter time period that was in effect when the preliminary plat was approved. An applicant who files a written request with the legislative body of the city, town, or county at least thirty days before the expiration of this three-year period shall be granted one one-year extension upon a showing that the applicant has attempted in good faith to submit the final plat within the three-year period. Nothing contained in this section shall act to prevent any city, town, or county from adopting by ordinance procedures which would allow other extensions of time that may or may not contain additional or altered conditions and requirements.

NEW SECTION. Sec. 3. This act does not affect the provisions of RCW 82.02.020.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 234

[Engrossed Substitute House Bill No. 308]

MUNICIPAL INCORPORATION

AN ACT Relating to municipal incorporation proceedings; amending RCW 35.02.010, 35.02.020, 35.02.030, 35.02.035, 35.02.040, 35.02.070, 35.02.086, 35.02.090, 35.02.100, 35.02.110, 35.02.120, 35.02.130, 35.13.247, 35.13.248, 35.02.140, 35.21.763, 35A.03.160, 35.02.150, 35.02.160, 35.02.170, 35.04.150, 35.04.160, 35.04.170, 35A.14.015, 35A.14.050, 35A.14.140, 35A.29.090, 36.93.170, 36.94.180, and 52.08.025; adding new sections to chapter 35.02 RCW; adding a new section to chapter 35A.03 RCW; recodifying RCW 35.04.150, 35.04.160, 35.04.170, 35.13.247, 35.13.248, 35.21.763, 35A.03.160, and 35.21.764; repealing RCW 35.02.050, 35.02.060, 35.02.080, 35.03.005, 35.03.010, 35.03.020, 35.03.030, 35.03.035, 35.03.040, 35.03.050, 35.04.010, 35.04.020, 35.04.030, 35.04.040, 35.04.050, 35.04.060, 35.04.070, 35.04.080, 35.04.090, 35.04.100, 35.04.110, 35.04.120, 35.04.130, 35.04.140, 35.04.180, 35A.03.010, 35A.03.020, 35A.03.030, 35A.03.035, 35A.03.040, 35A.03.050, 35A.03.060, 35A.03.070, 35A.03.075, 35A.03.080, 35A.03.085, 35A.03.090, 35A.03.100, 35A.03.110, 35A.03.120, 35A.03.130, 35A.03.140, 35A.03.151, 35A.03.152, 35A.03.170, 35A.03.180, 35A.04.010, 35A.04.020, 35A.04.030, 35A.04.040, 35A.04.050, 35A.04.060, 35A.04.070, 35A.04.080, 35A.04.090, 35A.04.100, 35A.04.110, 35A.04.120, 35A.04.130, 35A.04.140, 35A.04.150, 35A.04.160, 35A.04.170, 35A.04.180, and 35A.04.190; 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 35.02 RCW to read as follows:

The purpose of chapter 35.02 RCW is to provide a clear and uniform process for the incorporation of cities or towns operating under either Title 35 or 35A RCW. An incorporation may result in the creation of a second class city, third class city, or town operating under Title 35 RCW, or a noncharter code city operating under Title 35A RCW.

Sec. 2. Section 35.02.010, chapter 7, Laws of 1965 as amended by section 1, chapter 48, Laws of 1969 and RCW 35.02.010 are each amended to read as follows:

Any ~~((portion of a county))~~ contiguous area containing not less than three hundred inhabitants lying outside the limits of an incorporated city or town may become incorporated as a ~~((municipal corporation of the class to which it belongs))~~ city or town operating under Title 35 or 35A RCW as provided in this chapter: PROVIDED, That no area which lies within five air miles of the boundary of any city having a population of fifteen thousand or more ~~((and lying within the same county))~~ shall be incorporated ~~((after June 12, 1969))~~ which contains less than three thousand inhabitants.

Sec. 3. Section 35.02.020, chapter 7, Laws of 1965 and RCW 35.02-.020 are each amended to read as follows:

A petition for incorporation must be signed by qualified voters resident within the limits of the proposed city or town equal in number to ~~((twenty))~~ ten percent of the votes cast at the last state general election and presented to the auditor of the county in which all, or the largest portion of, the proposed city or town is located.

Sec. 4. Section 35.02.030, chapter 7, Laws of 1965 and RCW 35.02-.030 are each amended to read as follows:

The petition for incorporation shall ~~((contain))~~: (1) Indicate whether the proposed city or town shall be a noncharter code city operating under Title 35A RCW, or a city or town operating under Title 35 RCW; (2) indicate the form or plan of government ((under which a)) the city ((is to operate in the event it is incorporated,)) or town is to have; (3) set forth and particularly describe the proposed boundaries of the proposed city or town(;); (4) state the name of the proposed ((corporation and)) city or town; (5) state the number of inhabitants therein, as nearly as may be(;); and (6) pray that it may be incorporated. The petition shall conform to the requirements for form prescribed in RCW 35A.01.040. If the proposed city or town is located in more than one county, the petition shall be prepared in such a manner as to indicate the different counties within which the signators reside. A city or town operating under Title 35 RCW may have a mayor/council, council/manager, or commission form of government. A city operating under Title 35A RCW may have a mayor/council or council/manager plan of government. If the petition fails to specify the matters described in subsection (1) of this section, the proposal shall be to incorporate as a noncharter code city. If the petition fails to specify the

matter described in subsection (2) of this section, the proposal shall be to incorporate with a mayor/council form or plan of government.

Sec. 5. Section 35.02.035, chapter 7, Laws of 1965 and RCW 35.02-.035 are each amended to read as follows:

The county auditor shall within thirty days from the time of receiving said petition determine ~~((that the legal description of the area proposed to be incorporated is correct and that there is))~~ if the petition contains a sufficient number of valid signatures. ~~((Upon such determination))~~ If the proposed city or town is located in more than one county, the auditor shall immediately transmit a copy of the petition to the auditor of the other county or counties within which the proposed city or town is located. Each of these other county auditors shall certify the number of valid signatures thereon of voters residing in the county and transmit the certification to the auditor of the county with whom the petition was originally filed. This auditor shall determine if the petition contains a sufficient number of valid signatures. If the petition is certified as having sufficient valid signatures, the county auditor shall transmit said petition((s)), accompanied by the certificate of sufficiency, to the ((board of)) county ((commissioners)) legislative authority or authorities of the county or counties within which the proposed city or town is located.

NEW SECTION. Sec. 6. A new section is added to chapter 35.02 RCW to read as follows:

The county auditor who certifies the sufficiency of the petition shall notify the person or persons who submitted the petition of its sufficiency within five days of when the determination of sufficiency is made. Notice shall be by certified mail and may additionally be made by telephone. If a boundary review board or boards exists in the county or counties in which the proposed city or town is located, the petitioners shall file notice of the proposed incorporation with the boundary review board or boards.

NEW SECTION. Sec. 7. A new section is added to chapter 35.02 RCW to read as follows:

(1) The county legislative authority of the county in which the proposed city or town is located shall hold a public hearing on the proposed incorporation if no boundary review board exists in the county, or if the boundary review board does not take jurisdiction over the proposal. The public hearing shall be held within sixty days of when the county auditor notifies the legislative authority of the sufficiency of the petition if no boundary review board exists in the county, or within ninety days of when notice of the proposal is filed with the boundary review board if the boundary review board fails to take jurisdiction over the proposal. The public hearing may be continued to other days, not extending more than sixty days

beyond the initial hearing date. If the boundary review board takes jurisdiction, the county legislative authority shall not hold a public hearing on the proposal.

(2) If the proposed city or town is located in more than one county, a public hearing shall be held in each of the counties by the county legislative authority or boundary review board. Joint public hearings may be held by two or more county legislative authorities, or two or more boundary review boards.

Sec. 8. Section 35.02.040, chapter 7, Laws of 1965 and RCW 35.02-.040 are each amended to read as follows:

~~((Upon receipt of a petition for incorporation together with a certificate of sufficiency by the county auditor, the board of county commissioners shall give))~~ Notice of the public hearing ((upon said petition for)) by the county legislative authority on the proposed incorporation shall be by one publication in not more than ten nor less than three days prior to the date set for said hearing in one or more newspapers of general circulation within the ((county)) area proposed to be incorporated. Said notice shall contain the time and place of said hearing.

Sec. 9. Section 35.02.070, chapter 7, Laws of 1965 as amended by section 3, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.02.070 are each amended to read as follows:

~~((Upon final hearing on a petition for incorporation the board shall, subject to RCW 35.02.170,))~~ (1) If a county legislative authority holds a public hearing on a proposed incorporation, it shall establish and define the boundaries of the proposed city or town, being authorized to decrease but not increase the area proposed in the petition ((and)), except for adjusting the boundaries out to the right of way line of any portion of a public highway, street, or road pursuant to RCW 35.02.170. Any ((such)) decrease shall not exceed twenty percent of the area proposed((; it must also determine the number of inhabitants within the boundaries it has established)) or that portion of the area located within the county: PROVIDED, That the area shall not be so decreased that the number of inhabitants therein shall be less than required by RCW 35.02.010 as now or hereafter amended. The county legislative authority, or the boundary review board if it takes jurisdiction, shall determine the number of inhabitants within the boundaries it has established.

(2) A county legislative authority shall disapprove the proposed incorporation if, without decreasing the area proposed in the petition, it does not conform with RCW 35.02.010. A county legislative authority may not otherwise disapprove a proposed incorporation.

(3) A county legislative authority or boundary review board has jurisdiction only over that portion of a proposed city or town located within the boundaries of the county.

NEW SECTION. Sec. 10. A new section is added to chapter 35.02 RCW to read as follows:

An election shall be held in the area proposed to be incorporated to determine whether the proposed city or town shall be incorporated if the boundary review board approves or modifies and approves the proposal, or if the county legislative authority does not disapprove the proposal as provided in RCW 35.02.070. Voters at this election shall determine if the area is to be incorporated.

The initial election on the question of incorporation shall be held at the next special election date specified in RCW 29.13.020 that occurs sixty or more days after the final public hearing by the county legislative authority or authorities, or the approval or modification and approval by the boundary review board or boards. The county legislative authority or authorities shall call for this election and, if the incorporation is approved, shall call for other elections to elect the elected officials as provided in this section. If the vote in favor of the incorporation receives forty percent or less of the total vote on the question of incorporation, no new election on the question of incorporation for the area or any portion of the area proposed to be incorporated may be held for a period of three years from the date of the election in which the incorporation failed.

If the incorporation is authorized as provided by RCW 35.02.120, separate elections shall be held to nominate and elect persons to fill the various elective offices prescribed by law for the population and type of city or town, and to which it will belong. The primary election to nominate candidates for these elective positions shall be held at the next special election date, as specified in RCW 29.13.020, that occurs sixty or more days after the election on the question of incorporation. The election to fill these elective positions shall be held at the next special election date, as specified in RCW 29.13.020, that occurs thirty or more days after certification of the results of the primary election.

Sec. 11. Section 35.02.086, chapter 7, Laws of 1965 and RCW 35.02-.086 are each amended to read as follows:

Each candidate((s)) for a city or town elective position((s of the class to which such proposed corporation will belong and for the type of government as named in said petition)) shall file a declaration of candidacy with the county auditor of the county in which all or the major portion of the city or town is located, not more than forty-five nor less than thirty days prior to ((said)) the primary election at which the initial elected officials are nominated. The elective positions shall be as provided in law for the type of city or town and form or plan of government specified in the petition to incorporate, and for the population of the city or town as determined by the county legislative authority or boundary review board where applicable. Any candidate may withdraw his or her declaration at any time within five days after the last day allowed for filing declaration of candidacy. ((There

~~shall be no fee charged for filing a declaration of candidacy for this incorporation election:))~~ All names of candidates to be voted upon shall be printed upon the ballot alphabetically in groups under the designation of the respective titles of offices for which they are candidates. Names of candidates printed upon the ballot need not be rotated.

Sec. 12. Section 35.02.090, chapter 7, Laws of 1965 and RCW 35.02.090 are each amended to read as follows:

The elections on the proposed incorporation and for the nomination and election of the initial elected officials shall be conducted in accordance with the general election laws of the state, except as provided in this chapter. No person ((shall be)) is entitled to vote thereat unless he or she is a qualified elector of the county, or any of the counties in which the proposed city or town is located, and has resided within the limits of the proposed city or town for at least thirty days next preceding the date of election.

Sec. 13. Section 35.02.100, chapter 7, Laws of 1965 and RCW 35.02.100 are each amended to read as follows:

The notice of election on the question of the incorporation shall be given as provided by RCW 29.27.080 but shall further describe the boundaries of the proposed city or town, its name, and the number of inhabitants(;) ascertained by the ((board of)) county ((commissioners)) legislative authority or the boundary review board to reside ((therein)) in it.

Sec. 14. Section 35.02.110, chapter 7, Laws of 1965 and RCW 35.02.110 are each amended to read as follows:

The ballots in the initial election on the question of incorporation shall contain the words "for incorporation" and "against incorporation" or words equivalent thereto(, and also the names of the persons to be voted for, to fill the various elective offices).

Sec. 15. Section 35.02.120, chapter 7, Laws of 1965 and RCW 35.02.120 are each amended to read as follows:

~~((The county canvassing board of election returns shall certify the results of the election to the board of county commissioners:))~~ If the results reveal that a majority of the votes cast are for incorporation, the ~~((board by an order entered upon its minutes shall declare the city or town duly incorporated as of the class to which it may belong, naming it under the style of city (or town) of The board shall cause a certified copy of the order to be filed in the office of the secretary of state))~~ city or town shall become incorporated as provided in RCW 35.02.130. If the proposed city or town is located in more than one county, the auditors of the county or counties in which the smaller portion or portions of the proposed city or town is located shall forward a certified copy of the election results to the auditor of the county within which the major portion is located. This auditor shall add these totals to the totals in his or her county and certify the results to each of the county legislative authorities.

Sec. 16. Section 35.02.130, chapter 7, Laws of 1965 and RCW 35.02-.130 are each amended to read as follows:

~~The ((incorporation shall be complete upon the filing of the order of the board of county commissioners declaring it so, in the office of the secretary of state. The county auditor shall issue certificates of election to the successful candidates on or before the twentieth day following an election and said newly elected officials shall assume office on the first Monday following the issuance of the certificate of election))~~ city or town officially shall become incorporated at a date from one hundred eighty days to three hundred sixty days after the date of the election on the question of incorporation. An interim period shall exist between the time the newly elected officials have been elected and qualified and this official date of incorporation. During this interim period, the newly elected officials are authorized to adopt ordinances and resolutions which shall become effective on or after the official date of incorporation, and to enter into contracts and agreements to facilitate the transition to becoming a city or town and to ensure a continuation of governmental services after the official date of incorporation. Tax anticipation or revenue anticipation notes or warrants may be issued during this interim period. The governing body of the new city or town may acquire needed facilities, supplies, equipment, insurance, and staff during this interim period as if the city or town were in existence. This governing body may submit ballot propositions to the voters of the city or town to authorize taxes to be collected on or after the official date of incorporation, or authorize an annexation of the city or town by a fire protection district or library district to be effective immediately upon the effective date of the incorporation as a city or town.

The boundaries of a newly incorporated city or town shall be deemed to be established for purposes of RCW 84.09.030 on the date that the results of the initial election on the question of incorporation are certified or the first day of January following the date of this election if the newly incorporated city or town does not impose property taxes in the same year that the voters approve the incorporation.

The newly elected officials shall take office immediately upon their election and qualification with limited powers during this interim period as provided in this section. They shall acquire their full powers as of the official date of incorporation and shall continue in office until their successors are elected and qualified at the next general municipal election after the official date of incorporation: PROVIDED, That if the date of the next general municipal election is less than seventy-five days after the official date of incorporation ((election)), the initially elected officials ((~~elected at the incorporation election~~)) shall hold office until their successors are elected and qualified at the general municipal election next following.

The official date of incorporation shall be on a date from one hundred eighty to three hundred sixty days after the date of the election on the

question of incorporation, as specified in a resolution adopted by the governing body during this interim period. A copy of the resolution shall be filed with the county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located. If the governing body fails to adopt such a resolution, the official date of incorporation shall be three hundred sixty days after the date of the election on the question of incorporation. The county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located shall file a notice with the county assessor that the city or town has been authorized to be incorporated immediately after the favorable results of the election on the question of incorporation have been certified. The county legislative authority shall file a notice with the secretary of state that the city or town is incorporated as of the official date of incorporation.

NEW SECTION, Sec. 17. A new section is added to chapter 35.02 RCW to read as follows:

The ownership of all county roads located within the boundaries of a newly incorporated city or town shall revert to the city or town and become streets as of the official date of incorporation. However, any special assessments attributable to these county roads shall continue to exist and be collected as if the incorporation had not occurred. Property within the newly incorporated city or town shall continue to be subject to any indebtedness attributable to these roads and any related property tax levies.

The territory included within the newly incorporated city or town shall be removed from the road district as of the official date of incorporation. The territory included within the newly incorporated city or town shall be removed from a fire protection district or districts or library district or districts in which it was located, as of the official date of incorporation, unless the fire protection district or districts have annexed the city or town during the interim period as provided in RCW 52.04.160 through 52.04.200, or the library district or districts have annexed the city or town during the interim period as provided in RCW 27.12.260 through 27.12.290.

Sec. 18. Section 35.13.247, chapter 7, Laws of 1965 as amended by section 5, chapter 332, Laws of 1981 and RCW 35.13.247 are each amended to read as follows:

If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a city or town, ownership of all of the assets of the district shall be vested in the city or town, upon payment in cash, properties or contracts for fire protection services to the district within one year, of a percentage of the value of said assets equal to the percentage of the value of the real property in entire district remaining outside the incorporated or annexed area. The fire protection district may elect, by a vote of a majority of the persons residing outside the annexed or incorporated area who vote on the proposition, to require the annexing or incorporating city or town to

assume responsibility for the provision of fire protection, and for the operation and maintenance of the district's property, facilities, and equipment throughout the district and to pay the city or town a reasonable fee for such fire protection, operation, and maintenance.

If all of a fire protection district is included in an area that incorporates as a city or town or is annexed to a city or town, all of the assets and liabilities of the fire protection district shall be transferred to the newly incorporated city or town upon its official date of incorporation or to the city or town upon the annexation.

Sec. 19. Section 35.13.248, chapter 7, Laws of 1965 as amended by section 1, chapter 146, Laws of 1967 and RCW 35.13.248 are each amended to read as follows:

(1) If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a city or town, the ownership of all assets of the district shall remain in the district and the district shall pay to the city or town within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: PROVIDED, That if the area annexed or incorporated includes less than five percent of the ((area of the district is affected)) assessed value of the real property of the district, no payment shall be made to the city or town.

(2) As provided in RCW 35A.03.160, the fire protection district from which territory is removed as a result of an incorporation or annexation shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area.

(3) For the purposes of this section, the word "assets" shall mean the total assets of the fire district, reduced by its liabilities, including bonded indebtedness, the same to be determined by usual and accepted accounting methods. The amount of said liability shall be determined by reference to the fire district's balance sheet, produced in the regular course of business, which is nearest in time to the certification of the annexation of fire district territory by the city or town.

Sec. 20. Section 35.02.140, chapter 7, Laws of 1965 and RCW 35.02.140 are each amended to read as follows:

Whenever in any territory forming a part of an incorporated city or town which is part of a road district ~~((of the county))~~, and road district regular property taxes ((have been levied but not collected)) are collectable on any property within such territory, the same shall, when collected by the county treasurer, be paid to such city or town and placed in the city or town street fund by the city or town: PROVIDED, That this section shall not

apply to excess property tax levies securing general indebtedness or any special assessments due in behalf of such property.

Sec. 21. Section 35A.03.160, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.160 are each amended to read as follows:

At the option of the ~~((council))~~ governing body of a newly-incorporated ~~((noncharter code))~~ city or town, any fire protection district or library district serving any part of the area so incorporated shall continue to provide services to such area ~~((for the period during which such area is included within such special service district for taxing purposes under the provisions of RCW 84.09.030, without compensation from the noncharter code))~~ until the city or town receives distributions of property tax receipts from these special districts pursuant to RCW 35.02.140, or the city or town receives its own property tax receipts, whichever is earlier.

Sec. 22. Section 1, chapter 143, Laws of 1985 and RCW 35.21.763 are each amended to read as follows:

~~((Counties))~~ The approval of an incorporation by the voters of a proposed city or town, and the existence of a transition period to become a city or town, shall not remove the responsibility of any county, road district, library district, or fire district, within which the area is located, to continue providing services to the area until the official date of the incorporation.

A county shall continue to provide the following services to a newly incorporated ((cities)) city or town((s)), or that portion of the county within which the newly incorporated city or town is located, at the preincorporation level as follows:

(1) Law enforcement services shall be provided for a period not to exceed sixty days from the official date of the incorporation or until the city or town is receiving or could have begun receiving sales tax distributions under RCW ~~((82.14.020(1)))~~ 82.14.030(1), whichever is the shortest time period.

(2) Road maintenance shall be for a period not to exceed sixty days from the official date of the incorporation or until any tax distribution from the road district tax levy is made to the newly incorporated city or town pursuant to RCW ~~((35A.03.151 and 35A.03.152))~~ 35.02.140, whichever is the shorter time period.

Sec. 23. Section 35.02.150, chapter 7, Laws of 1965 as last amended by section 3, chapter 220, Laws of 1982 and RCW 35.02.150 are each amended to read as follows:

After the filing of any petition for incorporation with the county auditor, and pending its final disposition as provided for in this chapter, no other petition for incorporation which embraces any of the territory included therein shall be acted upon by the county auditor ~~((or))~~, the county legislative authority, or the boundary review board, or by any other public official or body that might otherwise be empowered to receive or act upon such a

petition: PROVIDED, That any petition for incorporation may be withdrawn(~~(, or a new petition embracing other or different boundaries may be substituted therefor,)~~) by a majority of the signers thereof(~~(;)~~) at any time before such petition has been certified by the county auditor to the county legislative authority: PROVIDED FURTHER, That a new petition may be substituted therefor that embraces other or different boundaries, incorporation as a city or town operating under a different title of law, or for incorporation as a city or town operating under a different plan or form of government, by a majority of the signers of the original incorporation petition, at any time before the original petition has been certified by the county auditor to the county legislative authority, in which case the same proceedings shall be taken as in the case of an original petition. A boundary review board, county auditor, county legislative authority, or any other public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing.

Sec. 24. Section 1, chapter 42, Laws of 1965 ex. sess. and RCW 35-.02.160 are each amended to read as follows:

The incorporation of any territory (~~((within the boundaries of any city pursuant to the provisions of chapters 35.02 through 35.04 RCW))~~) as a city or town shall cancel, as of the effective date of such incorporation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such incorporated territory, authorizing or otherwise permitting the operation of any public transportation, garbage collection and/or disposal or other similar public service business or facility within the limits of the incorporated territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the incorporating city or town a franchise to continue such business within the incorporated territory for a term of not less than the remaining term of the original franchise or permit, or five years, whichever is the shorter period, and the incorporating city or town, by franchise, permit or public operation, shall not extend similar or competing services to the incorporated territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said incorporated territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the incorporating city or town of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any incorporation pursuant to the provisions of chapter(~~(s)~~) 35.02 (~~((through 35.04))~~)

RCW, such person, firm or corporation shall have a right of action against any city or town causing such damages.

Sec. 25. Section 2, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.02.170 are each amended to read as follows:

~~((After September 8, 1975;))~~ Centerlines of public streets, roads or highways shall not be used to define any part of a boundary of a city or town in an incorporation or annexation proceeding. The right of way line of any public street, road or highway, or any segment thereof, may be used to define a part of a corporate boundary in an incorporation or annexation proceeding.

Sec. 26. Section 35.04.150, chapter 7, Laws of 1965 and RCW 35.04.150 are each amended to read as follows:

After incorporation of a city or town located in more than one county, all purposes essential to the maintenance, operation, and administration of the ((corporation)) city or town whenever any action is required or may be performed by the county, county legislative authority, or any county officer or board, such action shall be performed by the respective county, county legislative authority, officer, or board of the county of that part of the ((municipality)) city or town in which the largest number of inhabitants reside as of the date of the incorporation of the proposed ((corporation)) city or town except as provided in RCW 35.04.160 as recodified by this 1986 act, and all costs incurred shall be borne proportionately by each county in that ratio which the number of inhabitants residing in that part of each county forming a part of the proposed ((corporation)) city or town bears to the total number of inhabitants residing within the whole of the ((corporation)) city or town.

Sec. 27. Section 35.04.160, chapter 7, Laws of 1965 and RCW 35.04.160 are each amended to read as follows:

In the case of evaluation, assessment, collection, apportionment, and any other allied power or duty relating to taxes in connection with the ((corporation)) city or town, the action shall be performed by the county, county legislative authority, or county officer or board of the county for that area of the ((corporation)) city or town which is located within ((his)) the respective county, and all materials, information, and other data and all moneys collected shall be submitted to the proper officer of the county of that part of the ((corporation)) city or town in which the largest number of inhabitants reside. Any power which may be or duty which shall be performed in connection therewith shall be performed by the county, county legislative authority, officer, or board receiving such as though only a ((corporation)) city or town in a single county were concerned. All moneys collected from such area constituting a part of such ((corporation)) city or town that should be paid to such ((corporation)) city or town shall be

delivered to the ((corporate)) treasurer thereof, and all other materials, information, or data relating to the ((corporation)) city or town shall be submitted to the appropriate ((corporate)) city or town officials.

Any costs or expenses incurred under this section shall be borne proportionately by each county involved.

Sec. 28. Section 35.04.170, chapter 7, Laws of 1965 and RCW 35.04.170 are each amended to read as follows:

Any ((corporation)) city or town incorporated as provided in this chapter shall, in addition to all other powers, duties and benefits of ((corporations of the same class)) a city or town of the same type or class, be authorized to purchase, acquire, lease, or administer any property, real or personal, or property rights and improvements thereon owned by the federal government on such terms and conditions as may be mutually agreed upon, when authorized to do so by the United States government, and thereafter to sell, transfer, exchange, lease, or otherwise dispose of any such property, and to execute contracts with the federal government with respect to supplying water and for other utility services.

Sec. 29. Section 35A.14.015, chapter 119, Laws of 1967 ex. sess. as last amended by section 1, chapter 124, Laws of 1979 ex. sess. and RCW 35A.14.015 are each amended to read as follows:

When the legislative body of a charter code city or noncharter code city shall determine that the best interests and general welfare of such city would be served by the annexation of unincorporated territory contiguous to such city, such legislative body may, by resolution, call for an election to be held to submit to the voters of such territory the proposal for annexation. The resolution shall, subject to RCW ((35A.03.180)) 35.02.170, describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and shall provide that said city will pay the cost of the annexation election. The resolution may require that there also be submitted 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 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. Whenever such city has prepared and filed a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the resolution initiating the election may also provide for the simultaneous adoption of the proposed zoning regulation upon approval of annexation by the electorate of the area to be annexed. A certified copy of the resolution shall be filed with the legislative authority of the county in which said territory is located. A certified copy of the resolution shall be filed with the boundary review board as provided for in chapter 36.93 RCW or the county annexation review

board established by RCW 35A.14.200, unless such annexation proposal is within the provisions of RCW 35A.14.220.

Sec. 30. Section 35A.14.050, chapter 119, Laws of 1967 ex. sess. as last amended by section 15, chapter 220, Laws of 1975 1st ex. sess. 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 (~~35A.03.180~~) 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, 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 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. 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. 31. Section 35A.14.140, chapter 119, Laws of 1967 ex. sess. as amended by section 16, chapter 220, Laws of 1975 1st ex. sess. and RCW 35A.14.140 are each amended to read as follows:

Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW ((35A.03.180)) 35.02.170, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located.

Sec. 32. Section 27, chapter 281, Laws of 1985 and RCW 35A.29.090 are each amended to read as follows:

Except as otherwise provided in RCW ((35A.03.130, 35A.04.140, 35A.05.110)) 35.02.130, 35.10.480, or 35A.08.110, the term of every code city officer elected to office in a general municipal election as provided in RCW 29.13.020 shall begin when qualified and in accordance with RCW 29.04.170: PROVIDED, That any person elected to less than a full term where the office sought is vacant or is held by an appointed incumbent shall assume office as soon as the election returns are certified and they are qualified in accordance with RCW 29.01.135, unless otherwise provided in this title: PROVIDED FURTHER, That when not otherwise provided in this title, the term of officers elected at a special election shall begin on the first Monday following the certification of the election returns.

Sec. 33. Section 17, chapter 189, Laws of 1967 as last amended by section 2, chapter 220, Laws of 1982 and RCW 36.93.170 are each amended to read as follows:

In reaching a decision on a proposal or an alternative, the board shall consider the factors affecting such proposal, which shall include, but not be limited to the following:

(1) Population and territory; population density; land area and land uses; comprehensive use plans and zoning; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence of prime agricultural soils and agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities;

(2) Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the proposal or alternative on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The provisions of chapter 43.21C RCW, State Environmental Policy, shall not apply to incorporation proceedings covered by chapter 35.02 (~~(RCW), Incorporation Proceedings, or 35.03~~) RCW (~~(Incorporation of First Class Cities, or 35A.03 RCW, Incorporation as a Noncharter Code City, or 35A.04 RCW, Incorporation of Intercounty Area as a Noncharter Code City)~~).

Sec. 34. Section 18, chapter 72, Laws of 1967 as last amended by section 82, chapter 3, Laws of 1983 and RCW 36.94.180 are each amended to read as follows:

In the event of the annexation to a city or town of an area, or incorporation of an area, in which a county is operating a sewerage and/or water system, the property, facilities, and equipment of such sewerage and/or water system lying within the annexed or incorporated area may be transferred to the city or town if such transfer will not materially affect the operation of any of the remaining county system, subject to the assumption by the city or town of the county's obligations relating to such property, facilities, and equipment, under the procedures specified in, and pursuant to the authority contained in, chapter 35.13A RCW.

Sec. 35. Section 6, chapter 237, Laws of 1959 as last amended by section 119, chapter 7, Laws of 1985 and RCW 52.08.025 are each amended to read as follows:

Effective January 1, 1960, every city or town, or portion thereof, which is situated within the boundaries of a fire protection district shall become automatically removed from such fire protection district, and no fire protection district shall thereafter include any city or town, or portion thereof, within its boundaries except as provided for in RCW 52.02.020, 52.04.061, 52.04.071, 52.04.081, and 52.04.101.

However, if the area which incorporates or is annexed includes all of a fire protection district, the fire protection district, for purposes of imposing regular property taxes, shall continue in existence until the first day of January in the year in which the initial property tax collections of the newly incorporated city or town will be made or until the first day of January in the year the annexing city or town will collect its property taxes imposed on the newly annexed area. The members of the city or town council or commission shall act as the board of commissioners to impose, receive, and expend these property taxes.

NEW SECTION. Sec. 36. A new section is added to chapter 35A.03 RCW to read as follows:

Noncharter code cities shall be incorporated as provided in chapter 35.02 RCW.

NEW SECTION. Sec. 37. RCW 35.04.150, 35.04.160, 35.04.170, 35.13.247, 35.13.248, 35.21.763, and 35A.03.160, each as amended by this act, are decodified and recodified as part of chapter 35.02 RCW.

NEW SECTION. Sec. 38. RCW 35.21.764 is decodified and recodified as part of chapter 35.02 RCW.

NEW SECTION. Sec. 39. The following acts or parts of acts are each repealed:

- (1) Section 35.02.050, chapter 7, Laws of 1965 and RCW 35.02.050;
- (2) Section 35.02.060, chapter 7, Laws of 1965 and RCW 35.02.060;
- (3) Section 35.02.080, chapter 7, Laws of 1965 and RCW 35.02.080;
- (4) Section 6, chapter 270, Laws of 1969 ex. sess. and RCW 35.03.005;
- (5) Section 35.03.010, chapter 7, Laws of 1965, section 1, chapter 270, Laws of 1969 ex. sess. and RCW 35.03.010;
- (6) Section 35.03.020, chapter 7, Laws of 1965, section 2, chapter 270, Laws of 1969 ex. sess., section 17, chapter 469, Laws of 1985 and RCW 35.03.020;
- (7) Section 35.03.030, chapter 7, Laws of 1965, section 3, chapter 270, Laws of 1969 ex. sess., section 4, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.03.030;
- (8) Section 8, chapter 220, Laws of 1982 and RCW 35.03.035;
- (9) Section 35.03.040, chapter 7, Laws of 1965, section 4, chapter 270, Laws of 1969 ex. sess., section 16, chapter 126, Laws of 1979 ex. sess., section 7, chapter 220, Laws of 1982 and RCW 35.03.040; and
- (10) Section 35.03.050, chapter 7, Laws of 1965, section 5, chapter 270, Laws of 1969 ex. sess. and RCW 35.03.050.

NEW SECTION. Sec. 40. The following acts or parts of acts are each repealed:

- (1) Section 35.04.010, chapter 7, Laws of 1965 and RCW 35.04.010;
 - (2) Section 35.04.020, chapter 7, Laws of 1965 and RCW 35.04.020;
 - (3) Section 35.04.030, chapter 7, Laws of 1965 and RCW 35.04.030;
 - (4) Section 35.04.040, chapter 7, Laws of 1965 and RCW 35.04.040;
 - (5) Section 35.04.050, chapter 7, Laws of 1965 and RCW 35.04.050;
 - (6) Section 35.04.060, chapter 7, Laws of 1965, section 5, chapter 220, Laws of 1975 1st ex. sess. and RCW 35.04.060;
 - (7) Section 35.04.070, chapter 7, Laws of 1965, section 5, chapter 110, Laws of 1977 ex. sess., section 24, chapter 151, Laws of 1979 and RCW 35.04.070;
 - (8) Section 35.04.080, chapter 7, Laws of 1965 and RCW 35.04.080;
 - (9) Section 35.04.090, chapter 7, Laws of 1965 and RCW 35.04.090;
 - (10) Section 35.04.100, chapter 7, Laws of 1965 and RCW 35.04.100;
 - (11) Section 35.04.110, chapter 7, Laws of 1965 and RCW 35.04.110;
 - (12) Section 35.04.120, chapter 7, Laws of 1965 and RCW 35.04.120;
 - (13) Section 35.04.130, chapter 7, Laws of 1965 and RCW 35.04.130;
 - (14) Section 35.04.140, chapter 7, Laws of 1965 and RCW 35.04.140;
- and
- (15) Section 35.04.180, chapter 7, Laws of 1965 and RCW 35.04.180.

NEW SECTION. Sec. 41. The following acts or parts of acts are each repealed:

(1) Section 35A.03.010, chapter 119, Laws of 1967 ex. sess., section 10, chapter 18, Laws of 1979 ex. sess. and RCW 35A.03.010;

(2) Section 35A.03.020, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.020;

(3) Section 35A.03.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.030;

(4) Section 35A.03.035, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.035;

(5) Section 35A.03.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.040;

(6) Section 35A.03.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.050;

(7) Section 35A.03.060, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.060;

(8) Section 35A.03.070, chapter 119, Laws of 1967 ex. sess., section 12, chapter 220, Laws of 1975 1st ex. sess. and RCW 35A.03.070;

(9) Section 35A.03.075, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.075;

(10) Section 35A.03.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.080;

(11) Section 35A.03.085, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.085;

(12) Section 35A.03.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.090;

(13) Section 35A.03.100, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.100;

(14) Section 35A.03.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.110;

(15) Section 35A.03.120, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.120;

(16) Section 35A.03.130, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.130;

(17) Section 35A.03.140, chapter 119, Laws of 1967 ex. sess., section 4, chapter 220, Laws of 1982 and RCW 35A.03.140;

(18) Section 4, chapter 251, Laws of 1971 ex. sess. and RCW 35A.03.151;

(19) Section 16, chapter 251, Laws of 1971 ex. sess. and RCW 35A.03.152;

(20) Section 35A.03.170, chapter 119, Laws of 1967 ex. sess. and RCW 35A.03.170; and

(21) Section 11, chapter 220, Laws of 1975 1st ex. sess. and RCW 35A.03.180.

NEW SECTION. Sec. 42. The following acts or parts of acts are each repealed:

(1) Section 35A.04.010, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.010;

(2) Section 35A.04.020, chapter 119, Laws of 1967 ex. sess., section 11, chapter 18, Laws of 1979 ex. sess. and RCW 35A.04.020;

(3) Section 35A.04.030, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.030;

(4) Section 35A.04.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.040;

(5) Section 35A.04.050, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.050;

(6) Section 35A.04.060, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.060;

(7) Section 35A.04.070, chapter 119, Laws of 1967 ex. sess., section 13, chapter 220, Laws of 1975 1st ex. sess., section 12, chapter 18, Laws of 1979 ex. sess. and RCW 35A.04.070;

(8) Section 35A.04.080, chapter 119, Laws of 1967 ex. sess., section 29, chapter 151, Laws of 1979, section 13, chapter 18, Laws of 1979 ex. sess. and RCW 35A.04.080;

(9) Section 35A.04.090, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.090;

(10) Section 35A.04.100, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.100;

(11) Section 35A.04.110, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.110;

(12) Section 35A.04.120, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.120;

(13) Section 35A.04.130, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.130;

(14) Section 35A.04.140, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.140;

(15) Section 35A.04.150, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.150;

(16) Section 35A.04.160, chapter 119, Laws of 1967 ex. sess., section 30, chapter 151, Laws of 1979 and RCW 35A.04.160;

(17) Section 35A.04.170, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.170;

(18) Section 35A.04.180, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.180; and

(19) Section 35A.04.190, chapter 119, Laws of 1967 ex. sess. and RCW 35A.04.190.

NEW SECTION. Sec. 43. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

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

Passed the House February 3, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 235

[Engrossed Substitute Senate Bill No. 3458]

AUTOMOBILE INSURANCE—REDUCTION FOR INSUREDS FIFTY-FIVE YEARS AND OVER WHO HAVE COMPLETED AN ACCIDENT PREVENTION COURSE

AN ACT Relating to automobile insurance; and adding new sections to chapter 48.19 RCW.

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

NEW SECTION. Sec. 1. Any schedule of rates or rating plan for automobile liability and physical damage insurance submitted to or filed with the commissioner shall provide for an appropriate reduction in premium charges except for underinsured motorist coverage for those insureds who are fifty-five years of age and older, for a two-year period after successfully completing a motor vehicle accident prevention course meeting the criteria of the department of licensing with a minimum of eight hours, or additional hours as determined by rule of the department of licensing. This course may be conducted by a public or private agency approved by the department.

NEW SECTION. Sec. 2. All insurance companies writing automobile liability and physical damage insurance in this state shall allow an appropriate reduction in premium charges except for underinsured motorist coverage to all eligible persons subject to section 1 of this act.

NEW SECTION. Sec. 3. Upon successfully completing the approved course, each participant shall be issued by the course's sponsoring agency, a certificate that shall be the basis of qualification for the discount on insurance.

NEW SECTION. Sec. 4. Each participant shall take an approved course every two years to continue to be eligible for the discount on insurance.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall be added to chapter 48.19 RCW.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 236

[Recengrossed Substitute Senate Bill No. 3498]
RECREATIONAL WATER CONTACT FACILITIES

AN ACT Relating to recreational water contact facilities; adding new sections to chapter 70.90 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature recognizes that recreational water contact activities are becoming increasingly popular. Recreational water contact facilities are expanding in number and in the variety of equipment and activities offered. The legislature, to protect the public health, safety, and welfare and promote the safe use of recreational water contact facilities finds it necessary to regulate these facilities.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

(1) "Recreational water contact facility" means an artificial water contact facility with design and operational features that provide patron recreational activity which is different from that associated with a conventional swimming pool and purposefully involves immersion of the body partially or totally in the water, including but not limited to, water slides, wave pools, and water amusement lagoons which bring water in contact with patrons.

(2) "Local health officer" means the health officer of the city, county, or city-county department or district or a representative authorized by the local health officer.

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

(4) "Person" means an individual, firm, partnership, co-partnership, corporation, company, association, club, government entity, or organization of any kind.

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

(6) "Board" means the state board of health.

NEW SECTION. Sec. 3. (1) The board shall adopt rules under the administrative procedures act, chapter 34.04 RCW, setting safety, sanitation, and water quality standards for recreational water contact facilities. The rules shall include but not be limited to requirements for design; operation; injury and illness reports; biological and chemical contamination standards; water quality monitoring; inspection; permit application and issuance; fees sufficient to cover the costs incurred by the department for the administration and enforcement of this chapter; and enforcement procedures.

(2) In adopting rules under subsection (1) of this section regarding the operation or design of a recreational water contact facility, the board shall

review and consider any recommendations made by the recreational water contact facility advisory committee.

NEW SECTION. Sec. 4. (1) A recreational water contact facility advisory committee is established and shall be appointed by the board which shall consist of the following members:

- (a) A representative of the board of health;
- (b) A private operator of a recreational water contact facility;
- (c) A public operator of a recreational water contact facility;
- (d) A representative from the department of social and health services;
- (e) A representative of the county health departments;
- (f) A representative from those who engage in the construction or design of recreational water contact facilities; and
- (g) A representative from those who engage in the manufacturing or design of goods or services for recreational water contact facilities.

(2) The advisory committee shall have the following powers and duties:

- (a) To assist in reviewing and drafting proposed rules regarding the design or operation of any recreational water contact facility which recommendations shall be transmitted to the board;
- (b) To provide technical assistance regarding the review of new products, equipment and procedures, and periodic program review; and
- (c) To provide recommendations upon request in the settlement of grievances.

(3) The committee may appoint subcommittees as it deems necessary.

NEW SECTION. Sec. 5. The secretary shall enforce the rules adopted under this chapter. The secretary may develop joint plans of responsibility with any local health jurisdiction to administer this chapter.

NEW SECTION. Sec. 6. (1) Local health officers may establish and collect fees sufficient to cover their costs incurred in carrying out their duties under this chapter and the rules adopted under this chapter.

(2) The department may establish and collect fees sufficient to cover its costs incurred in carrying out its duties under this chapter. The fees shall be deposited in the state general fund.

(3) A person shall not be required to submit fees at both the state and local levels.

NEW SECTION. Sec. 7. A permit is required for any modification to or construction of any recreational water contact facility after the effective date of this act. The plans and specifications for the modification or construction shall be submitted to the applicable local authority or the department as applicable, but a person shall not be required to submit plans at both the state and local levels or apply for both a state and local permit. The plans shall be reviewed and may be approved or rejected or modifications or conditions imposed consistent with this chapter as the public health or safety may require, and a permit shall be issued or denied.

NEW SECTION. Sec. 8. An operating permit from the department or local health officer, as applicable, is required for each recreational water contact facility operated in this state. The permit shall be renewed annually. The permit shall be conspicuously displayed at the recreational water contact facility.

NEW SECTION. Sec. 9. Nothing in this chapter or the rules adopted under this chapter creates or forms the basis for any liability: (1) On the part of the state and local health jurisdictions, or their officers, employees, or agents, for any injury or damage resulting from the failure of the owner or operator of recreational water contact facilities to comply with this chapter or the rules adopted under this chapter; or (2) by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter or the rules adopted under this chapter on the part of the state and local health jurisdictions, or by their officers, employees, or agents.

All actions of local health officers and the secretary shall be deemed an exercise of the state's police power.

NEW SECTION. Sec. 10. Any person operating a recreational water contact facility shall report to the local health officer or the department any serious injury, communicable disease, or death occurring at or caused by the recreational water contact facility.

NEW SECTION. Sec. 11. County, city, or town legislative authorities and the secretary, as applicable, may establish civil penalties for a violation of this chapter or the rules adopted under this chapter not to exceed five hundred dollars. Each day upon which a violation occurs constitutes a separate violation. A person violating this chapter may be enjoined from continuing the violation.

NEW SECTION. Sec. 12. (1) Any person aggrieved by an order or action of the department may request a hearing under the administrative procedure act, chapter 34.04 RCW. Notice shall be provided by the department as required under chapter 34.04 RCW for contested cases.

(2) Any person aggrieved by an order or action of a local health officer may request a hearing which shall be held consistent with the local health jurisdiction's administrative appeals process. Notice shall be provided by the local health jurisdiction consistent with its due process requirements.

NEW SECTION. Sec. 13. The provisions of this chapter shall not affect local health ordinances existing as of the effective date of this act which regulate water contact facilities.

NEW SECTION. Sec. 14. (1) A recreational water contact facility shall not be operated within the state unless the owner or operator has purchased insurance in an amount not less than one hundred thousand dollars against liability for bodily injury to or death of one or more persons in any one accident arising out of the use of the recreational water contact facility.

(2) The board may require a recreational water contact facility to purchase insurance in addition to the amount required in subsection (1) of this section.

NEW SECTION. Sec. 15. The recreational water contact facility advisory committee shall be reviewed under the process provided in chapter 43.131 RCW before December 1, 1989. Unless extended by law, the committee shall be terminated on June 30, 1990, and section 4 of this act shall expire June 30, 1991.

NEW SECTION. Sec. 16. Sections 1 through 15 of this act are added to chapter 70.90 RCW.

NEW SECTION. Sec. 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 237

[Substitute Senate Bill No. 3847]

TEACHERS—RETIREMENT BENEFITS

AN ACT Relating to retired teachers; amending RCW 41.32.570; and adding a new section to chapter 41.32 RCW.

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

Sec. 1. Section 57, chapter 80, Laws of 1947 as last amended by section 5, chapter 151, Laws of 1967 and RCW 41.32.570 are each amended to read as follows:

(1) Any retired teacher who enters service in any public educational institution in Washington state shall cease to receive pension payments while engaged in such service: PROVIDED, That service may be rendered up to seventy-five days per school year without reduction of pension.

(2) Subsection (1) of this section shall apply to all persons governed by the provisions of RCW 41.32.005, regardless of the date of their retirement, but shall apply only to benefits payable after the effective date of this act.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 238

[Substitute Senate Bill No. 4458]

FOREST LANDS—EXEMPTION FROM COMPENSATING TAX—RIGHTS OR
FEE TITLE TRANSFERRED EXCLUSIVELY FOR THE PROTECTION AND
CONSERVATION OF CERTAIN LANDS

AN ACT Relating to exemption from the compensating tax on forest lands for conservation purposes; amending RCW 84.33.120 and 84.33.140; and declaring an emergency.

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

Sec. 1. Section 12, chapter 294, Laws of 1971 ex. sess. as last amended by section 23, chapter 204, Laws of 1984 and RCW 84.33.120 are each amended to read as follows:

(1) In preparing the assessment rolls as of January 1, 1982, for taxes payable in 1983 and each January 1st thereafter, the assessor shall list each parcel of forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (2) of this section and shall compute the assessed value of the land by using the same assessment ratio he applies generally in computing the assessed value of other property in his county. Values for the several grades of bare forest land shall be as follows.

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
1	1	\$141
	2	136
	3	131
	4	95
2	1	118
	2	114
	3	110
	4	80
3	1	93
	2	90
	3	87
	4	66
4	1	70
	2	68
	3	66
	4	52

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
5	1	51
	2	48
	3	46
	4	31
6	1	26
	2	25
	3	25
	4	23
7	1	12
	2	12
	3	11
	4	11
8		1

(2) On or before December 31, 1981, the department shall adjust, by rule under chapter 34.04 RCW, the forest land values contained in subsection (1) of this section in accordance with this subsection, and shall certify these adjusted values to the county assessor for his use in preparing the assessment rolls as of January 1, 1982. For the adjustment to be made on or before December 31, 1981, for use in the 1982 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1976, and June 30, 1981, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1975, and June 30, 1980, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(c) Adjust the forest land values contained in subsection (1) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

For the adjustments to be made on or before December 31, 1982, and each succeeding year thereafter, the same procedure shall be followed as described in this subsection utilizing harvester excise tax returns filed under RCW 82.04.291 and this chapter except that this adjustment shall be made

to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(3) In preparing the assessment roll for 1972 and each year thereafter, the assessor shall enter as the true and fair value of each parcel of forest land the appropriate grade value certified to him by the department of revenue, and he shall compute the assessed value of such land by using the same assessment ratio he applies generally in computing the assessed value of other property in his county. In preparing the assessment roll for 1975 and each year thereafter, the assessor shall assess and value as classified forest land all forest land that is not then designated pursuant to RCW 84.33.120(4) or 84.33.130 and shall make a notation of such classification upon the assessment and tax rolls. On or before January 15 of the first year in which such notation is made, the assessor shall mail notice by certified mail to the owner that such land has been classified as forest land and is subject to the compensating tax imposed by this section. If the owner desires not to have such land assessed and valued as classified forest land, he shall give the assessor written notice thereof on or before March 31 of such year and the assessor shall remove from the assessment and tax rolls the classification notation entered pursuant to this subsection, and shall thereafter assess and value such land in the manner provided by law other than this chapter 84.33 RCW.

(4) In any year commencing with 1972, an owner of land which is assessed and valued by the assessor other than pursuant to the procedures set forth in RCW 84.33.110 and this section, and which has, in the immediately preceding year, been assessed and valued by the assessor as forest land, may appeal to the county board of equalization by filing an application with the board in the manner prescribed in subsection (2) of RCW 84.33.130. The county board shall afford the applicant an opportunity to be heard if the application so requests and shall act upon the application in the manner prescribed in subsection (3) of RCW 84.33.130.

(5) Land that has been assessed and valued as classified forest land as of any year commencing with 1975 assessment year or earlier shall continue to be so assessed and valued until removal of classification by the assessor only upon the occurrence of one of the following events:

(a) Receipt of notice from the owner to remove such land from classification as forest land;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that, because of actions taken by the owner, such land is no longer primarily devoted to and used for growing and harvesting timber;

(d) Determination that a higher and better use exists for such land than growing and harvesting timber after giving the owner written notice and an opportunity to be heard;

(e) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 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 compensating taxes calculated pursuant to subsection (7) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (7) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals.

The assessor shall remove classification pursuant to subsections (c) or (d) above prior to September 30 of the year prior to the assessment year for which termination of classification is to be effective. Removal of classification as forest land upon occurrence of subsection (a), (b), (d), or (e) above shall apply only to the land affected, and upon occurrence of subsection (c) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber: PROVIDED, That any remaining classified forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(6) Within thirty days after such removal of classification as forest land, the assessor shall notify the owner in writing setting forth the reasons for such removal. The owner of such land shall thereupon have the right to apply for designation of such land as forest land pursuant to subsection (4) of this section or RCW 84.33.130. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(7) Unless the owner successfully applies for designation of such land or unless the removal is reversed on appeal, notation of removal from classification shall immediately be made upon the assessment and tax rolls, and commencing on January 1 of the year following the year in which the assessor made such notation, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsections (5)(e) and (9) of this section and unless the assessor shall not have mailed notice of classification pursuant to subsection (3) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the

amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years, commencing with assessment year 1975, for which such land was assessed and valued as forest land.

(8) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from classification as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(9) The compensating tax specified in subsection (7) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land;

(d) A donation of development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections or the sale or transfer of fee title to a governmental entity or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW: PROVIDED, That at such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (7) of this section shall be imposed upon the current owner.

(10) With respect to any land that has been designated prior to May 6, 1974, pursuant to RCW 84.33.120(4) or 84.33.130, the assessor may, prior

to January 1, 1975, on his own motion or pursuant to petition by the owner, change, without imposition of the compensating tax provided under RCW 84.33.140, the status of such designated land to classified forest land.

Sec. 2. Section 14, chapter 294, Laws of 1971 ex. sess. as last amended by section 9, chapter 148, Laws of 1981 and RCW 84.33.140 are each amended to read as follows:

(1) When land has been designated as forest land pursuant to RCW 84.33.120(4) or 84.33.130, a notation of such designation shall be made each year upon the assessment and tax rolls, a copy of the notice of approval together with the legal description or assessor's tax lot numbers for such land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and such land shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120 until removal of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove such designation;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land designation continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 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 compensating taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that (i) such land is no longer primarily devoted to and used for growing and harvesting timber, (ii) such owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder, or (iii) restocking has not occurred to the extent or within the time specified in the application for designation of such land.

Removal of designation upon occurrence of any of subsections (a) through (c) above shall apply only to the land affected, and upon occurrence of subsection (d) shall apply only to the actual area of land no longer primarily

devoted to and used for growing and harvesting timber, without regard to other land that may have been included in the same application and approval for designation: PROVIDED, That any remaining designated forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(2) Within thirty days after such removal of designation of forest land, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal a copy of the notice of removal with notation of the action, if any, upon appeal, together with the legal description or assessor's tax lot numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and commencing on January 1 of the year following the year in which the assessor mailed such notice, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection (5) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years for which such land was designated as forest land.

(4) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The compensating tax specified in subsection (3) of this section shall not be imposed if the removal of designation pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land;

(d) A donation of development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections or the sale or transfer of fee title to a governmental entity or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW: PROVIDED, That at such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (3) of this section shall be imposed upon the current owner.

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

Passed the Senate February 13, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 239

[Senate Bill No. 4470]

INITIATIVES TO THE LEGISLATURE—USE OF PUBLIC FACILITIES TO INFLUENCE PROHIBITED

AN ACT Relating to the use of public facilities to influence initiatives to the legislature; and amending RCW 42.17.190.

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

Sec. 1. Section 19, chapter 1, Laws of 1973 as last amended by section 1, chapter 265, Laws of 1979 ex. sess. and RCW 42.17.190 are each amended to read as follows:

(1) Every legislator and every committee of the legislature shall file with the commission quarterly reports listing the names, addresses, and salaries of all persons employed by the person or committee making the filing for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties of such legislator or committee during

the preceding quarter. The reports shall be made in the form and the manner prescribed by the commission and shall be filed between the first and tenth days of each calendar quarter: PROVIDED, That the information required by this subsection may be supplied, insofar as it is available, by the chief clerk of the house of representatives or by the secretary of the senate on a form prepared by the commission.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying: PROVIDED, This does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations which are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties: PROVIDED FURTHER, That this subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency: PROVIDED, That public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, the term "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business: PROVIDED FURTHER, That this section does not permit the printing of a state publication which has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17.130. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities which are part of the normal and regular conduct of the office or agency.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district which expends public funds for lobbying shall file with the commission, except as exempted by ~~((subsection (4)))~~ (d) of this ~~((section))~~ subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection ~~((4) of this section))~~ the term "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official: PROVIDED, That the total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington do not exceed fifteen dollars for any three-month period: PROVIDED FURTHER, That the exemption under this subsection is in addition to the exemption provided in (A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

~~((5))~~ (6) In lieu of reporting under subsection ~~((4))~~ (5) of this section any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission, that elected officials, officers, or employees who on behalf of any such local agency engage in lobbying reportable under subsection ~~((4))~~ (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17.150 and 42.17.170. Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17.180.

~~((6))~~ (7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

~~((7))~~ (8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs which relate only indirectly or incidentally to lobbying or which are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt ~~((regulations))~~ rules clarifying and implementing this legislative interpretation and policy.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 240

[Substitute Senate Bill No. 4491]

NOT FOR PROFIT CORPORATIONS

AN ACT Relating to not for profit or nonprofit corporations; amending RCW 24.03.005, 24.03.015, 24.03.020, 24.03.030, 24.03.035, 24.03.045, 24.03.047, 24.03.048, 24.03.050, 24.03.055, 24.03.060, 24.03.065, 24.03.070, 24.03.075, 24.03.100, 24.03.105, 24.03.110, 24.03.115, 24.03.120, 24.03.125, 24.03.135, 24.03.150, 24.03.155, 24.03.165, 24.03.180, 24.03.183, 24.03.185, 24.03.190, 24.03.195, 24.03.200, 24.03.205, 24.03.207, 24.03.215, 24.03.220, 24.03.265, 24.03.295, 24.03.300, 24.03.302, 24.03.305, 24.03.320, 24.03.325, 24.03.330, 24.03.345, 24.03.350, 24.03.360, 24.03.380, 24.03.385, 24.03.390, 24.03.395, 24.03.400, 24.03.405, and 24.03.445; adding new sections to chapter 24.03 RCW; and repealing RCW 24.03.355.

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

Sec. 1. Section 2, chapter 235, Laws of 1967 as amended by section 72, chapter 35, Laws of 1982 and RCW 24.03.005 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(3) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(4) "Articles of incorporation" (~~((includes))~~) and "articles" mean the original articles of incorporation and all amendments thereto, and includes articles of merger and restated articles.

(5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(6) "Member" means (~~((one))~~) an individual or entity having membership rights in a corporation in accordance with the provisions of its articles or incorporation or bylaws.

(7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated in the articles or bylaws.

(8) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(9) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(10) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined that the document complies as to form with the applicable requirements of this chapter.

(11) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than

thirty days later than the receipt date which might otherwise be applied as the effective date.

(12) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the document submission with the secretary of state.

(13) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation.

Sec. 2. Section 4, chapter 235, Laws of 1967 as amended by section 22, chapter 106, Laws of 1983 and RCW 24.03.015 are each amended to read as follows:

Corporations may be organized under this chapter for any lawful purpose or purposes, including, without being limited to, any one or more of the following purposes: Charitable; benevolent; eleemosynary; educational; civic; patriotic; political; religious; social; fraternal; literary; cultural; athletic; scientific; agricultural; horticultural; animal husbandry; and professional, commercial, industrial or trade association; but labor unions, cooperative organizations, and organizations subject to any of the provisions of the banking or insurance laws of this state may not be organized under this chapter: PROVIDED, That any not for profit corporation heretofore organized under any act hereby repealed and existing for the purpose of providing health care services as defined in RCW 48.44.010(1) or 48.46.020(1), as now or hereafter amended, shall continue to be organized under this chapter.

Sec. 3. Section 5, chapter 235, Laws of 1967 as amended by section 74, chapter 35, Laws of 1982 and RCW 24.03.020 are each amended to read as follows:

One or more persons ((may incorporate a corporation by signing and delivering articles of incorporation in duplicate to the secretary of state)) of the age of eighteen years or more, or a domestic or foreign, profit or non-profit, corporation, may act as incorporator or incorporators of a corporation by signing and delivering to the secretary of state articles of incorporation for such corporation.

Sec. 4. Section 7, chapter 235, Laws of 1967 and RCW 24.03.030 are each amended to read as follows:

A corporation subject to this chapter:

(1) Shall not have or issue shares of stock((-No dividend shall be paid and no part of the income of a corporation shall be distributed));

(2) Shall not make any disbursement of income to its members, directors or officers((-A corporation));

(3) Shall not loan money or credit to its officers or directors;

(4) May pay compensation in a reasonable amount to its members, directors or officers for services rendered((;));

(5) May confer benefits upon its members in conformity with its purposes((;)); and

(6) Upon dissolution or final liquidation may make distributions to its members as permitted by this chapter, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

Sec. 5. Section 8, chapter 235, Laws of 1967 and RCW 24.03.035 are each amended to read as follows:

Each corporation shall have power:

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

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

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

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

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

(6) To lend money or credit to its employees other than its officers and directors.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

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

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States, or in any foreign country.

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

(12) 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 corporation.

(13) Unless otherwise provided in the articles of incorporation, 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.

(14) To indemnify any director or officer or former director or officer ~~((of the corporation, or any person who may have served at its request as a director or officer of another corporation, whether for profit or not for profit, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty; but such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any bylaw, agreement, vote of board of directors or members, or otherwise:~~

((+5))) or other person in the manner and to the extent provided in RCW 23A.08.025, as now existing or hereafter amended.

(15) To make guarantees respecting the contracts, securities, or obligations of any person (including, but not limited to, any member, any affiliated or unaffiliated individual, domestic or foreign, profit or not for profit, corporation, partnership, association, joint venture or trust) if such guarantee may reasonably be expected to benefit, directly or indirectly, the guarantor corporation. As to the enforceability of the guarantee, the decision of the board of directors that the guarantee may be reasonably expected to benefit, directly or indirectly, the guarantor corporation shall be binding in respect to the issue of benefit to the guarantor corporation.

(16) To pay pensions and establish pension plans, pension trusts, and other benefit plans for any or all of its directors, officers, and employees.

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

(18) To be a trustee of a charitable trust, to administer a charitable trust and to act as executor in relation to any charitable bequest or devise to the corporation. This subsection shall not be construed as conferring authority to engage in the general business of trusts nor in the business of trust banking.

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

((+6))) (20) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Sec. 6. Section 10, chapter 235, Laws of 1967 as amended by section 76, chapter 35, Laws of 1982 and RCW 24.03.045 are each amended to read as follows:

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under any act of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a limited partnership existing under chapter 25.10 RCW, or a corporate name reserved or registered as permitted by the laws of this state. This subsection shall not apply if the applicant files with the secretary of state either of the following: (a) The written consent of the other corporation, partnership, or holder of a reserved name to use the same or deceptively similar name and one or more words are added or deleted to make the name distinguishable from the other name as determined by the secretary of state, or (b) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

(4) Shall not include or end with "incorporated," "company," ((or)) "corporation," "partnership," "limited partnership," or "Ltd.," or any abbreviation thereof, but may use "club," "league," "association," "services," "committee," "fund," "society," "foundation," "....., a nonprofit corporation," or any name of like import.

Sec. 7. Section 78, chapter 35, Laws of 1982 and RCW 24.03.047 are each amended to read as follows:

Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state ((a)) the applicable registration fee ~~((in the amount of one dollar for each month, or fraction thereof, between~~

~~the date of filing the application and December thirty-first of the calendar year in which the application is filed)).~~

The registration shall be effective until the close of the calendar year in which the application for registration is filed.

Sec. 8. Section 79, chapter 35, Laws of 1982 and RCW 24.03.048 are each amended to read as follows:

A corporation which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying ((π)) the applicable fee ((of ten dollars)). A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year.

Sec. 9. Section 11, chapter 235, Laws of 1967 as last amended by section 80, chapter 35, Laws of 1982 and RCW 24.03.050 are each amended to read as follows:

Each corporation shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office. ~~((The registered agent and registered office shall be designated by duly adopted resolution of the board of directors; and a statement of such designation, executed by an officer of the corporation, together with a copy of the board of directors' designating resolution, shall be filed with the secretary of state.))~~ A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or

corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No Washington corporation or foreign corporation authorized to ~~((transact business))~~ conduct affairs in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section.

Sec. 10. Section 12, chapter 235, Laws of 1967 as amended by section 81, chapter 35, Laws of 1982 and RCW 24.03.055 are each amended to read as follows:

A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in the form prescribed by the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed ~~((including street and number))~~.

(3) If its registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall ~~((file such statement, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective))~~ endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes the agent's business address to another place within the state, the agent may change such address and the address of the registered office of any corporation of which the agent is a registered

agent, by filing a statement as required by this section except that it need be signed only by the registered agent, it need not be responsive to subsection (3) or (5) of this section, and it must recite that a copy of the statement has been mailed to the secretary of the corporation.

Sec. 11. Section 13, chapter 235, Laws of 1967 as amended by section 82, chapter 35, Laws of 1982 and RCW 24.03.060 are each amended to read as follows:

The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the secretary of the corporation ((at its registered office)) as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Sec. 12. Section 14, chapter 235, Laws of 1967 and RCW 24.03.065 are each amended to read as follows:

A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or the bylaws. Unless otherwise specified in the articles of incorporation or the bylaws, an individual, domestic or foreign profit or nonprofit corporation, a general or limited partnership, an association or other entity may be a member of a corporation. If the corporation has no members, that fact shall be set forth in the articles of incorporation or the bylaws. A corporation may issue certificates evidencing membership therein.

Sec. 13. Section 15, chapter 235, Laws of 1967 and RCW 24.03.070 are each amended to read as follows:

The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation. The board may adopt emergency bylaws in the manner provided by RCW 23A.08.240.

Sec. 14. Section 16, chapter 235, Laws of 1967 and RCW 24.03.075 are each amended to read as follows:

Meetings of members may be held at such place, either within or without this state, as may be ~~((provided in))~~ stated in or fixed in accordance with the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this state.

An annual meeting of the members shall be held at such time as may be ~~((provided))~~ stated in or fixed in accordance with the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such other officers or persons or number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth of the votes entitled to be cast at such meeting.

Except as may be otherwise restricted by the articles of incorporation or the bylaws, members of the corporation may participate in a meeting of members by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

Sec. 15. Section 21, chapter 235, Laws of 1967 and RCW 24.03.100 are each amended to read as follows:

~~((The number of directors of a corporation shall be not less than three. Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number of the first board of directors which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number shall have the effect of shortening the term of any~~

~~incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.~~

~~The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.~~

~~Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified.~~

~~A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation.))~~

The board of directors of a corporation shall consist of one or more individuals. The number of directors shall be fixed by or in the manner provided in the articles of incorporation or the bylaws, except as to the number constituting the initial board of directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to or in the manner provided in the articles of incorporation or the bylaws, but a decrease shall not have the effect of shortening the term of any incumbent director. In the absence of a bylaw providing for the number of directors, the number shall be the same as that provided for in the articles of incorporation. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. Directors may be divided into classes and the terms of office and manner of election or appointment need not be uniform. Each director shall hold office for the term for which the director is elected or appointed and until the director's successor shall have been selected and qualified.

NEW SECTION. Sec. 16. A new section is added to chapter 24.03 RCW to read as follows:

The bylaws or articles of incorporation may contain a procedure for removal of directors. If the articles of incorporation or bylaws provide for the election of any director or directors by members, then in the absence of any provision regarding removal of directors:

(1) Any director elected by members may be removed, with or without cause, by two-thirds of the votes cast by members having voting rights with

regard to the election of any director, represented in person or by proxy at a meeting of members at which a quorum is present;

(2) In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no one of the directors may be removed if the votes cast against that director's removal would be sufficient to elect that director if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which he or she is a part; and

(3) Whenever the members of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect to the removal of a director or directors so elected, to the vote of the members of that class and not to the vote of the members as a whole.

Sec. 17. Section 22, chapter 235, Laws of 1967 and RCW 24.03.105 are each amended to read as follows:

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 affirmative vote of a majority of the remaining board of directors even though less than a quorum is present unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office.

Sec. 18. Section 23, chapter 235, Laws of 1967 and RCW 24.03.110 are each amended to read as follows:

A majority of the number of directors fixed by, or in the manner provided in the bylaws, or in the absence of a bylaw fixing or providing for the number of directors, then of the number ((stated)) fixed by or in the manner provided in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws; but in no event shall a quorum consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this chapter, the articles of incorporation or the bylaws.

NEW SECTION. Sec. 19. A new section is added to chapter 24.03 RCW to read as follows:

A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the director's dissent or abstention shall be entered in the minutes of the meeting or unless the director shall file his or her written dissent or abstention to such action with the person acting as the secretary of the meeting before the adjournment

thereof or shall forward such dissent or abstention by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent or abstain shall not apply to a director who voted in favor of such action.

Sec. 20. Section 24, chapter 235, Laws of 1967 and RCW 24.03.115 are each amended to read as follows:

If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, in the articles of incorporation or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation: PROVIDED, That no such committee shall have the authority of the board of directors in reference to amending, altering or repealing the bylaws; electing, appointing or removing any member of any such committee or any director or officer of the corporation; amending the articles of incorporation; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, or exchange ((or mortgage)) of all or substantially all of the property and assets of the corporation not in the ordinary course of business; authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the corporation; or amending, altering or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law.

Sec. 21. Section 25, chapter 235, Laws of 1967 and RCW 24.03.120 are each amended to read as follows:

~~Meetings of the board of directors, regular or special, may be held either within or without this state((, and upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting)).~~

Regular meetings of the board of directors or of any committee designated by the board of directors may be held with or without notice as prescribed in the bylaws. Special meeting of the board of directors or any committee designated by the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director or a committee

member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated by the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws.

Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated by the board of directors may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

Sec. 22. Section 26, chapter 235, Laws of 1967 and RCW 24.03.125 are each amended to read as follows:

The officers of a corporation shall consist of a president, one or more vice presidents, a secretary, and a treasurer (~~((and such other officers and assistant officers as may be deemed necessary))~~), each of whom shall be elected or appointed at such time and in such manner and for such terms (~~((not exceeding three years))~~) as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the articles or bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary. Such other officers and assistant officers or agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the articles or bylaws.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws.

NEW SECTION. Sec. 23. A new section is added to chapter 24.03 RCW to read as follows:

A director shall perform the duties of a director, including the duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matter presented;

(2) Counsel, public accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(3) A committee of the board upon which the director does not serve, duly designated in accordance with a provision in the articles of incorporation or bylaws, as to matters within its designated authority, which committee the director believes to merit confidence; so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

Sec. 24. Section 28, chapter 235, Laws of 1967 and RCW 24.03.135 are each amended to read as follows:

Each corporation shall keep ((correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time:)) at its registered office, its principal office in this state, or at its secretary's office if in this state, the following:

(1) Current articles and bylaws;

(2) A record of members, including names, addresses, and classes of membership, if any;

(3) Correct and adequate records of accounts and finances;

(4) A record of officers' and directors' names and addresses;

(5) Minutes of the proceedings of the members, if any, the board, and any minutes which may be maintained by committees of the board. Records may be written, or electronic if capable of being converted to writing.

The records shall be open at any reasonable time to inspection by any member of more than three months standing or a representative of more than five percent of the membership.

Cost of inspecting or copying shall be borne by such member except for costs for copies of articles or bylaws. Any such member must have a purpose for inspection reasonably related to membership interests. Use or sale of members' lists by such member if obtained by inspection is prohibited.

The superior court of the corporation's or such member's residence may order inspection and may appoint independent inspectors. Such member shall pay inspection costs unless the court orders otherwise.

Sec. 25. Section 31, chapter 235, Laws of 1967 as amended by section 84, chapter 35, Laws of 1982 and RCW 24.03.150 are each amended to read as follows:

Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall 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, except as against the state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary or administrative dissolution.

Sec. 26. Section 32, chapter 235, Laws of 1967 and RCW 24.03.155 are each amended to read as follows:

After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the ~~((incorporators))~~ directors named in the articles of incorporation, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The ~~((incorporators))~~ directors calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting. Any action permitted to be taken at the organization meeting of the directors may be taken without a meeting if each director signs an instrument stating the action so taken.

~~((A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least three days' notice, for such purposes as shall be stated in the notice of the meeting.))~~

Sec. 27. Section 34, chapter 235, Laws of 1967 and RCW 24.03.165 are each amended to read as follows:

Amendments to the articles of incorporation shall be made in the following manner:

(1) Where there are members having voting rights, with regard to the question, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, with regard to the question, an amendment shall be adopted at a meeting of

the board of directors upon receiving the vote of a majority of the directors in office.

Any number of amendments may be submitted and voted upon at any one meeting.

Sec. 28. Section 37, chapter 235, Laws of 1967 as amended by section 87, chapter 35, Laws of 1982 and RCW 24.03.180 are each amended to read as follows:

Upon the filing of the articles of amendment by the secretary of state, or on such later date, not more than thirty days subsequent to the filing thereof by the secretary of state, as may be provided in the articles of amendment, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending action to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

Sec. 29. Section 88, chapter 35, Laws of 1982 and RCW 24.03.183 are each amended to read as follows:

A domestic corporation may at any time restate its articles of incorporation ((as theretofore amended;)) by a resolution adopted by the board of directors. A corporation may amend and restate in one resolution, but may not present the amendments and restatement for filing by the secretary in a single document. Separate articles of amendment, under RCW 24.03.165 and articles of restatement, under this section, must be presented notwithstanding the corporation's adoption of a single resolution of amendment and restatement.

Upon the adoption of the resolution, restated articles of incorporation shall be executed in duplicate by the corporation by one of its officers ((and)). The restated articles shall set forth all of the operative provisions of the articles of incorporation ((as theretofore amended)) together with a statement that the restated articles of incorporation correctly set forth without change the ((corresponding)) provisions of the articles of incorporation as ((theretofore)) amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:

- (1) Endorse on each duplicate original the word "Filed" and the ((effective)) date of the filing thereof;
- (2) File one duplicate original; and

(3) Issue a restated certificate of incorporation, to which the other duplicate original shall be affixed.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

Sec. 30. Section 38, chapter 235, Laws of 1967 and RCW 24.03.185 are each amended to read as follows:

Any two or more domestic corporations subject to this chapter may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this chapter.

Each corporation shall adopt a plan of merger setting forth:

(1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(2) The terms and conditions of the proposed merger.

(3) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

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

Sec. 31. Section 39, chapter 235, Laws of 1967 and RCW 24.03.190 are each amended to read as follows:

Any two or more domestic corporations subject to this chapter may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this chapter.

Each corporation shall adopt a plan of consolidation setting forth:

(1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

(2) The terms and conditions of the proposed consolidation.

(3) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.

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

Sec. 32. Section 40, chapter 235, Laws of 1967 and RCW 24.03.195 are each amended to read as follows:

A plan of merger or consolidation shall be adopted in the following manner:

(1) Where the members of any merging or consolidating corporation have voting rights with regard to the question, the board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members present at each such meeting or represented by proxy are entitled to cast.

(2) Where any merging or consolidating corporation has no members, or no members having voting rights with regard to the question, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Sec. 33. Section 41, chapter 235, Laws of 1967 as amended by section 89, chapter 35, Laws of 1982 and RCW 24.03.200 are each amended to read as follows:

(1) Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by an officer of each corporation, and shall set forth:

(a) The plan of merger or the plan of consolidation;

(b) Where the members of any merging or consolidating corporation have voting rights, then as to each such corporation (i) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (ii) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto;

(c) Where any merging or consolidating corporation has no members, or no members having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(2) Duplicate originals of the articles of merger or articles of consolidation 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 chapter prescribed:

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

(b) File one of such duplicate originals; and

(c) Issue a certificate of merger or a certificate of consolidation to which the other duplicate original shall be affixed.

The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative.

Sec. 34. Section 42, chapter 235, Laws of 1967 as amended by section 90, chapter 35, Laws of 1982 and RCW 24.03.205 are each amended to read as follows:

~~((Upon the filing of the articles of merger, or the articles of consolidation by the secretary of state, the merger or consolidation shall be effected:))~~

A merger or consolidation shall become effective upon the filing of the articles of merger or articles of consolidation with the secretary of state, or on such later date, not more than thirty days after the filing thereof with the secretary of state, as shall be provided for in the plan.

Sec. 35. Section 91, chapter 35, Laws of 1982 and RCW 24.03.207 are each amended to read as follows:

One or more foreign corporations and one or more domestic corporations may be merged or consolidated ~~((or participate in an exchange))~~ in the following manner, if such merger~~((;))~~ or consolidation~~((; or exchange))~~ is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this title with respect to the merger~~((;))~~ or consolidation~~((; or exchange;))~~ as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(a) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to the merger or consolidation and in any proceeding for the enforcement of the rights, if any, of a ~~((dissenting shareholder))~~ member of any such domestic corporation against the surviving or new corporation; and

(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding~~((; and~~

(c) ~~An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this title with respect to the rights of dissenting shareholders).~~

The effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except as the laws of the other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger(;) or consolidation, (~~or exchange;~~) the merger(;) or consolidation(~~or exchange;~~) may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger(;) or consolidation (~~or exchange~~). In the event the merger(;) or consolidation(~~or exchange~~) is abandoned, the parties thereto shall execute a notice of abandonment in triplicate signed by an officer for each corporation signing the notice. If the secretary of state finds the notice conforms to law, the secretary of state shall:

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

(b) File one of the triplicate originals in the secretary of state's office; and

(c) Issue the other triplicate originals to the respective parties or their representatives.

Sec. 36. Section 44, chapter 235, Laws of 1967 and RCW 24.03.215 are each amended to read as follows:

A sale, lease, exchange, (~~mortgage, pledge~~) or other disposition of all, or substantially all, the property and assets of a corporation, if not in the ordinary course of business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(1) Where there are members having voting rights with regard to the question, the board of directors shall adopt a resolution recommending such sale, lease, exchange, (~~mortgage, pledge~~) or other disposition and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, (~~mortgage, pledge~~) or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by this chapter for the giving of

notice of meetings of members. At such meeting the members may authorize such sale, lease, exchange, (~~mortgage, pledge~~) or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast. After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, (~~mortgage, pledge~~) or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

(2) Where there are no members, or no members having voting rights with regard to the question, a sale, lease, exchange, (~~mortgage, pledge~~) or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.

NEW SECTION. Sec. 37. A new section is added to chapter 24.03 RCW to read as follows:

The sale, lease, exchange or other disposition of all, or substantially all, the property and assets of a corporation in the usual and regular course of its business and the mortgage or pledge of any or all property and assets of a corporation whether or not in the usual course of business may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares, obligations, or other securities of any other corporation, domestic or foreign, as shall be authorized by its board of directors. In any such case, no other authorization or consent of any member shall be required.

Sec. 38. Section 45, chapter 235, Laws of 1967 as amended by section 92, chapter 35, Laws of 1982 and RCW 24.03.220 are each amended to read as follows:

A corporation may dissolve and wind up its affairs in the following manner:

(1) Where there are members having voting rights with regard to the question, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members having such voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights with regard to the question, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except in so far as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, to the attorney general with respect to assets subject to RCW 24.03.225(3), and to the department of revenue, and shall proceed to collect its assets and apply and distribute them as provided in this chapter.

Sec. 39. Section 54, chapter 235, Laws of 1967 and RCW 24.03.265 are each amended to read as follows:

Superior courts shall have full power to liquidate the assets and affairs of a corporation:

(1) In an action by a member ((or)), director, or the attorney general when it is made to appear:

(a) That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights; or

(b) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(c) That the corporate assets are being misapplied or wasted; or

(d) That the corporation is unable to carry out its purposes.

(2) In an action by a creditor:

(a) When the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or

(b) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(3) Upon application by a corporation to have its dissolution continued under the supervision of the court.

(4) When an action has been filed by the attorney general to dissolve a corporation under the provisions of this chapter and it is established that liquidation of its affairs should precede the entry of a decree of dissolution.

Proceedings under subsections (1), (2), or (3) of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make directors or members parties to any such action or proceedings unless relief is sought against them personally.

Sec. 40. Section 60, chapter 235, Laws of 1967 and RCW 24.03.295 are each amended to read as follows:

In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the secretary of state. No fee shall be charged by the clerk for issuance or by the secretary of state for the filing thereof.

Sec. 41. Section 61, chapter 235, Laws of 1967 as amended by section 96, chapter 35, Laws of 1982 and RCW 24.03.300 are each amended to read as follows:

The dissolution of a corporation either (1) by the filing and issuance of a certificate of dissolution, voluntary or (~~involuntary~~) administrative, by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years after expiration so as to extend its period of duration. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation extending its period of duration shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. The corporation shall also pay to the state all fees and penalties which would otherwise have been due if the corporate charter had not expired, plus a reinstatement fee (~~of twenty-five dollars~~) as provided in this chapter.

Sec. 42. Section 9, chapter 163, Laws of 1969 ex. sess. as last amended by section 97, chapter 35, Laws of 1982 and RCW 24.03.302 are each amended to read as follows:

A corporation shall be administratively dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

- (1) Has failed to file or complete its annual report within the time required by law; or
- (2) Has failed for thirty days to appoint or maintain a registered agent in this state; or

(3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than forty-five days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the forty-five day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of the state shall dissolve the corporation by issuing a certificate of ((involuntary)) administrative dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of ((involuntary)) administrative dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of ((involuntary)) administrative dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its dissolution if it shall file or complete its annual report or if it shall appoint or maintain a registered agent, or if it shall file with the secretary of state a required statement of change of registered agent or registered office and in addition, if it shall pay a reinstatement fee of twenty-five dollars plus any other fees that may be due and owing the secretary of state. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided in RCW 24.03.300 and

the directors of the corporation shall hold the title to the property of the corporation as trustees for the benefit of its creditors and members.

Sec. 43. Section 62, chapter 235, Laws of 1967 and RCW 24.03.305 are each amended to read as follows:

No foreign corporation shall have the right to conduct affairs in this state until it shall have procured a certificate of authority so to do from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any affairs which a corporation organized under this chapter is not permitted to conduct. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

Without excluding other activities which may not constitute conducting affairs in this state, a foreign corporation shall not be considered to be conducting affairs in this state, for the purposes of this chapter, by reason of carrying on in this state any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its directors or members or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Creating evidences of debt, mortgages or liens on real or personal property.

(5) Securing or collecting debts due to it or enforcing any rights in property securing the same.

(6) Effecting sales through independent contractors.

(7) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

(8) Creating as borrower or lender, or acquiring, indebtedness or mortgages or other security interests in real or personal property.

(9) Securing or collecting debts or enforcing any rights in property securing the same.

(10) Transacting any business in interstate commerce.

(11) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

Sec. 44. Section 65, chapter 235, Laws of 1967 and RCW 24.03.320 are each amended to read as follows:

Whenever a foreign corporation which is authorized to conduct affairs in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter conduct any affairs in this state until it has changed its name to a name which is available to it under the laws of this state or has otherwise complied with the provisions of this chapter.

Sec. 45. Section 66, chapter 235, Laws of 1967 and RCW 24.03.325 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) If the name of the corporation contains the word "corporation," "company," "incorporated," or "limited," or contains an abbreviation of one of such words, then the name of the corporation which it elects for use in this state.

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

~~((3))~~ (4) 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) 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.

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

~~((6))~~ (7) The names and respective addresses of the directors and officers of the corporation.

~~((7))~~ (8) 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.

The 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.

The 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 the corporation is incorporated.

Sec. 46. Section 67, chapter 235, Laws of 1967 as last amended by section 99, chapter 35, Laws of 1982 and RCW 24.03.330 are each amended to read as follows:

Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state (~~(together with a certificate of good standing which has been issued within the previous sixty days and certified to by the proper officer of the state or country under the laws of which it is incorporated)~~).

If the secretary of state finds that such application conforms to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such documents the word "Filed," and the ~~((effective))~~ date of the filing thereof.

(2) File one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state to which the other duplicate original application shall be affixed.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Sec. 47. Section 70, chapter 235, Laws of 1967 as amended by section 102, chapter 35, Laws of 1982 and RCW 24.03.345 are each amended to read as follows:

A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in a form approved by the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed.

(3) If its registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall ~~((file such statement, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective))~~ endorse thereon the word "Filed," and the month, day, and

year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state who shall forthwith mail a copy thereof to the secretary of the foreign corporation at its principal office (~~in the state or country under the laws of which it is incorporated~~) as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes his business address to another place within the state, the registered agent may change such address and the address of the registered office of any corporation of which the registered agent is a registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsection (3) or (5) of this section, and it must recite that a copy of the statement has been mailed to the corporation.

Sec. 48. Section 71, chapter 235, Laws of 1967 as amended by section 103, chapter 35, Laws of 1982 and RCW 24.03.350 are each amended to read as follows:

The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the secretary of the corporation (~~at its principal office in the state or country under the laws of which it is incorporated~~) as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Sec. 49. Section 73, chapter 235, Laws of 1967 and RCW 24.03.360 are each amended to read as follows:

Whenever a foreign corporation authorized to conduct affairs in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall ~~((; within thirty days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall))~~ not be necessary for such corporation to procure either a new or amended certificate of authority to conduct affairs in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to pursue in this state.

Sec. 50. Section 77, chapter 235, Laws of 1967 as amended by section 106, chapter 35, Laws of 1982 and RCW 24.03.380 are each amended to read as follows:

(1) The certificate of authority of a foreign corporation to conduct affairs in this state shall be revoked by the secretary of state upon the conditions prescribed in this section when:

~~((1))~~ (a) The corporation has failed to file its annual report within the time required by this chapter, or has failed to pay any fees or penalties prescribed by this chapter when they have become due and payable; or

~~((2))~~ (b) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this chapter; or

~~((3))~~ (c) The corporation has failed, for thirty days after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change as required by this chapter; or

~~((4))~~ The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or

~~((5))~~ The certificate of authority of the corporation was procured through fraud practiced upon the state; or

~~((6))~~ (d) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

~~((7))~~ (e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this chapter.

~~((No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless the secretary of state shall have given the corporation not less than sixty days' notice thereof by first class mail addressed to its registered office in this state, or, if there is no registered office, to the last known address of any officer or director of the corporation as shown by the records of the secretary of state, and the corporation shall fail prior to revocation to file such annual report, or pay such fees or penalties; or file the required statement of change of registered agent, or file such articles of amendment or articles of merger, or correct such misrepresentation, delinquency, or omission.))~~ (2) Prior to revoking a certificate of authority under subsection (1) of this section, the secretary of state shall give the corporation written notice of the corporation's delinquency or omission by first class mail, postage prepaid, addressed to the corporation's registered agent. If, according to the records of the secretary of state, the corporation does not have a registered agent, the notice may be given by mail addressed to the corporation at its last known address or at the address of any officer or director of the corporation, as shown by the records of the secretary of state. Notice is deemed to have been given five days after the date deposited in the United States mail, correctly addressed, and with correct postage affixed. The notice shall inform the corporation that its certificate of authority shall be revoked at the expiration of sixty days following the date the notice had been deemed to have been given, unless it corrects the delinquency or omission within the sixty-day period.

(3) Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

(4) The attorney general may take such action regarding revocation of a certificate of authority as is provided by RCW 24.03.250 for the dissolution of a domestic corporation. The procedures of RCW 24.03.250 shall apply to any action under this section. The clerk of any superior court entering a decree of revocation of a certificate of authority shall file a certified copy, without cost or filing fee, with the office of the secretary of state.

Sec. 51. Section 78, chapter 235, Laws of 1967 as amended by section 107, chapter 35, Laws of 1982 and RCW 24.03.385 are each amended to read as follows:

Upon revoking any certificate of authority under RCW 24.03.380, the secretary of state shall:

- (1) Issue a certificate of revocation in duplicate.
- (2) File one of such certificates in the secretary of state's office.

(3) Mail ~~((to such corporation at its registered office in this state a notice of such revocation accompanied by one of such certificates))~~ the other

duplicate certificate to such corporation at its registered office in this state or, if there is no registered office in this state, to the corporation at the last known address of any officer or director of the corporation, as shown by the records of the secretary of state.

Upon the filing of such certificate of revocation, the authority of the corporation to conduct affairs in this state shall cease.

Sec. 52. Section 79, chapter 235, Laws of 1967 and RCW 24.03.390 are each amended to read as follows:

No foreign corporation which is conducting affairs in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the conduct of affairs by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

The failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state.

A foreign corporation which transacts business in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this chapter upon such corporation had it duly applied for and received a certificate of authority to transact business in this state as required by this chapter and thereafter filed all reports required by this chapter, plus all penalties imposed by this chapter for failure to pay such fees. The attorney general shall bring proceedings to recover all amounts due this state under the provisions of this section.

Sec. 53. Section 80, chapter 235, Laws of 1967 as amended by section 108, chapter 35, Laws of 1982 and RCW 24.03.395 are each amended to read as follows:

Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report in the form prescribed by the secretary of state setting forth:

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

(2) The address of the registered office of the corporation in this state including street and number and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address

of its principal office in the state or country under the laws of which it is incorporated.

(3) A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state.

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

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

The secretary of state may (~~by rule adopted under chapter 34.04 RCW~~) provide that correction or updating of information appearing on previous annual filings is sufficient to constitute the current annual filing.

Sec. 54. Section 81, chapter 235, Laws of 1967 as last amended by section 109, chapter 35, Laws of 1982 and RCW 24.03.400 are each amended to read as follows:

Not less than thirty days prior to a corporation's renewal date, or by December 1 of each year for a nonstaggered renewal, the secretary of state shall mail to each domestic and foreign corporation, by first class mail addressed to its registered office, a notice that its annual report must be filed as required by this chapter, and stating that if it fails to file its annual report it shall be dissolved or its certificate of authority revoked, as the case may be. Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligation to file the annual reports required by this chapter.

Such annual report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year, or on an annual renewal date as the secretary of state may establish. (~~Proof to the satisfaction of the secretary of state that prior to the corporation's annual renewal date the annual report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement.~~)

If the secretary of state finds that such report substantially conforms to the requirements of this chapter, the secretary of state shall file the same.

Sec. 55. Section 82, chapter 235, Laws of 1967 as last amended by section 110, chapter 35, Laws of 1982 and RCW 24.03.405 are each amended to read as follows:

The secretary of state shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.

(2) Filing articles of amendment or restatement and issuing a certificate of amendment or a restated certificate of incorporation, ten dollars.

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.

(4) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, affidavit of nonappointment, or any combination of these, five dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to articles of incorporation or in conjunction with the filing of the annual report.

(5) Filing articles of dissolution, no fee.

(6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, ten dollars.

~~(8) ((Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.~~

~~(9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.~~

~~(+0))~~ Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.

~~((+1))~~ (9) Filing a certificate by a foreign corporation of the appointment of a registered agent, five dollars. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the filing of the annual report.

~~((+2) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent, five dollars. A separate fee for filing such a certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the filing of the annual report.~~

~~(+3))~~ (10) Filing a certificate of election adopting the provisions of chapter 24.03 RCW, twenty dollars.

~~((+4))~~ (11) Filing an application to reserve a corporate name, ten dollars.

~~((+5))~~ (12) Filing a notice of transfer of a reserved corporate name, five dollars.

~~((+6))~~ (13) Filing a name registration, twenty dollars per year, or part thereof.

(14) Filing any other statement or report authorized for filing under this chapter, including an annual report, of a domestic or foreign corporation, ~~((five))~~ ten dollars.

Sec. 56. Section 90, chapter 235, Laws of 1967 as amended by section 115, chapter 35, Laws of 1982 and RCW 24.03.445 are each amended to read as follows:

If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this chapter to be approved by the secretary of state before the same shall be filed in his or her office, the secretary of state shall(~~(; within ten days after the delivery thereof to the office of the secretary of state;))~~) give written notice of disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. Within thirty days from such disapproval such person or corporation may appeal to the superior court (~~(of the county in which the registered office of such corporation is, or is proposed to be, situated by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct the secretary of state to take such action as the court may deem proper.~~

~~If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, pursuant to the provisions of this chapter, such foreign corporation may likewise appeal to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct the secretary of state to take such action as the court may deem proper.~~

~~Appeals from all final orders and judgments entered by the superior court under this section in review of any ruling or decision of the secretary of state may be taken as in other civil actions)) pursuant to the provisions of the administrative procedure act, chapter 34.04 RCW.~~

NEW SECTION. Sec. 57. A new section is added to chapter 24.03 RCW to read as follows:

(1) A corporation revoked under RCW 24.03.380 may apply to the secretary of state for reinstatement within three years after the effective date of revocation. An application filed within such two-year period may be amended or supplemented and any such amendment or supplement shall be effective as of the date of original filing. The application filed under this section shall be filed under and by authority of an officer of the corporation.

(2) The application shall:

(a) State the name of the corporation and, if applicable, the name the corporation had elected to use in this state at the time of revocation, and the effective date of its revocation;

(b) Provide an explanation to show that the grounds for revocation either did not exist or have been eliminated;

(c) State the name of the corporation at the time of reinstatement and, if applicable, the name the corporation elects to use in this state at the time of reinstatement which may be reserved under RCW 24.03.046;

(d) Appoint a registered agent and state the registered office address under RCW 24.03.340; and

(e) Be accompanied by payment of applicable fees and penalties.

(3) If the secretary of state determines that the application conforms to law, and that all applicable fees have been paid, the secretary of state shall cancel the certificate of revocation, prepare and file a certificate of reinstatement, and mail a copy of the certificate of reinstatement to the corporation.

(4) Reinstatement under this section relates back to and takes effect as of the date of revocation. The corporate authority shall be deemed to have continued without interruption from that date.

(5) In the event the application for reinstatement states a corporate name which the secretary of state finds to be contrary to the requirements of RCW 24.03.046, the application, amended application, or supplemental application shall be amended to adopt another corporate name which is in compliance with RCW 24.03.046. In the event the reinstatement application so adopts a new corporate name for use in Washington, the application for authority shall be deemed to have been amended to change the corporation's name to the name so adopted for use in Washington, effective as of the effective date of the certificate of reinstatement.

NEW SECTION. Sec. 58. A new section as added to chapter 24.03 RCW to read as follows:

(1) An application processing fee of thirty dollars shall be charged for an application for reinstatement under section 57 of this act.

(2) An application processing fee of ten dollars shall be charged for each amendment or supplement to an application for reinstatement.

(3) The corporation seeking reinstatement shall pay the full amount of all annual corporation fees which would have been assessed for the years of the period of administrative revocation, had the corporation been in active status, and the license fee for the year of reinstatement.

NEW SECTION. Sec. 59. Section 72, chapter 235, Laws of 1967 and RCW 24.03.355 are each repealed.

Passed the Senate February 12, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 241

[Engrossed Substitute Senate Bill No. 4497]

VEHICLE SALES

AN ACT Relating to vehicle sales; amending RCW 46.70.005, 46.70.011, 46.70.021, 46.70.031, 46.70.041, 46.70.061, 46.70.070, 46.70.083, 46.70.101, 46.70.102, 46.70.120, 46.70.170, 46.70.180, 46.70.190, 46.70.200, 46.70.210, and 46.70.260; adding new sections to chapter 46.70.082; [adding new sections to chapter 46.70 RCW; repealing RCW 46.70.081 and 46.70.082;] prescribing penalties; making an appropriation; providing effective dates; and declaring an emergency.

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

Sec. 1. Section 1, chapter 74, Laws of 1967 ex. sess. as amended by section 1, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.005 are each amended to read as follows:

The legislature finds and declares that the distribution and sale of vehicles in the state of Washington vitally affects the general economy of the state and the public interest and the public welfare, 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 and license vehicle manufacturers, distributors, or wholesalers and factory or distributor representatives, and to regulate and license dealers(~~(, and salesmen)~~) of vehicles doing business in Washington, in order to prevent frauds, impositions, and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state.

Sec. 2. Section 3, chapter 11, Laws of 1979 as last amended by section 2, chapter 305, Laws of 1981 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" (~~(shall)~~) 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 providing or licensing for use facilities and/or services for compensation of any kind which bring together potential buyers and sellers. PROVIDED, That)~~). Vehicle dealers shall be classified as follows:

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

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

(c) A "miscellaneous vehicle dealer" (~~shall be~~) is a vehicle dealer that deals in motorcycles (~~and~~) 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 provisions 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 and any subsidiaries or holding companies thereof, or credit union authorized to do business in this state under state or federal law.

(5) "Vehicle (~~salesman~~) 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) (~~The term~~) "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 ~~((shall))~~ 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 ~~((shall))~~ further includes any sales promotion organization, whether ~~((the same be))~~ 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 ~~((his, its, or))~~ their vehicles or for supervising or contracting with ~~((his, its, or))~~ their dealers or prospective dealers.

(9) "Established place of business" means a ~~((permanent, enclosed commercial building located within the state of Washington easily accessible and open to the public, at all reasonable times, with an improved display area of not less than three thousand square feet in or immediately adjoining said building, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building code, zoning and other land-use regulatory ordinances and in which such building the public may contact the vehicle dealer or his vehicle salesman, at all reasonable times and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business at such place. The established place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. A dealer operating a listing service who does not physically maintain any vehicles for display, or a vehicle dealer who merely rents or leases or licenses for use any space on a temporary basis not to exceed two days to private persons to sell their own vehicles, need not operate in a commercial building nor have such a display area))~~ location meeting the requirements of section 4(1) of this act 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 ~~((same county as the principal place of business of the firm which))~~ 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 ~~((same county as the principal place of business of the firm under))~~ state, at which ~~((he))~~ place the firm does business ~~((under))~~ 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.

Sec. 3. Section 4, chapter 74, Laws of 1967 ex. sess. as amended by section 3, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.021 are each amended to read as follows:

It ~~((shall be))~~ is unlawful for any person, firm, or association to act as a vehicle dealer ~~((, vehicle salesman))~~ or vehicle manufacturer, to engage in business as such, ~~((act as such,))~~ serve in the capacity of such, advertise himself, ~~((itself))~~ herself, or themselves as such, solicit sales as such, or distribute or transfer vehicles for resale in this state, without first obtaining and holding a current license as provided in this chapter ~~((: PROVIDED; That a vehicle dealer shall not be required to have a vehicle salesman's license: PROVIDED, FURTHER, That))~~, unless the title of the vehicle is in the name of the seller. It is unlawful for any person other than a licensed vehicle dealer to display a vehicle for sale unless the registered owner or legal owner is the displayer or holds a notarized power of attorney. A person or firm engaged in buying and offering for sale, or buying and selling five or more vehicles in a twelve-month period, or in any other way engaged in dealer activity without holding a vehicle dealer license, is guilty of a gross misdemeanor, and upon conviction is subject to a fine of up to one thousand dollars for each violation and up to one year in jail. A second offense is a class C felony punishable under chapter 9A.20 RCW. A violation of this section is also a per se violation of chapter 19.86 RCW and is considered a deceptive practice. The department of licensing, the Washington state patrol, the attorney general's office, and the department of revenue shall cooperate in the enforcement of this section. A distributor, factory branch, or factory representative shall not be required to have a vehicle manufacturer license so long as the vehicle manufacturer so represented is properly licensed pursuant to this chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 46.70 RCW 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.

(2) 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) 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) A subagency shall comply with all requirements of an established place of business.

(5) 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.

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

(9) 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) 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) 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.

NEW SECTION. Sec. 5. A new section is added to chapter 46.70 RCW 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 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.

NEW SECTION. Sec. 6. A new section is added to chapter 46.70 RCW to read as follows:

Listing dealers shall transact dealer business by obtaining a consignment for sale, and the buyer's purchase of the mobile home shall be handled as dealer inventory. All funds from the purchaser shall be placed in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the mobile home from these funds. A complete account of all funds received and disbursed shall be given to the seller or consignor after the sale is completed.

Sec. 7. Section 5, chapter 74, Laws of 1967 ex. sess. as amended by section 4, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.031 are each amended to read as follows:

A vehicle dealer(~~(-salesman,))~~ or vehicle manufacturer may apply for a license by filing with the department an application in such form as the department may prescribe.

Sec. 8. Section 6, chapter 74, Laws of 1967 ex. sess. as last amended by section 187, chapter 158, Laws of 1979 and RCW 46.70.041 are each amended to read as follows:

(1) Every application for a vehicle dealer (~~(or a vehicle salesman's))~~ license shall contain the following information to the extent (~~(the same is applicable))~~ it applies to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his fingerprints, the honesty, truthfulness, and good reputation of the applicant for the license, or of the officers of a corporation making the application;

(b) The applicant's form and place of organization including if the applicant is a corporation, proof that the corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant(;) and ((in the case of a vehicle dealer;)) any partner, officer, or director;

(d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has any unsatisfied judgment in any federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime which directly relates to the business for which the license is sought and the time

elapsed since the conviction is less than ten years, or has suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners;

~~((c)) Any other information the department may reasonably require.~~

~~(2) If the applicant is a vehicle dealer:~~

~~(a)) (f) A business telephone with a listing in the local directory;~~

~~(g) The name or names of new vehicles the vehicle dealer wishes to sell;~~

~~((b)) (h) The names and addresses of each manufacturer from whom the applicant has received a franchise;~~

~~((c)) (i) Whether the applicant intends to sell used vehicles, and if so, whether he has space available for servicing and repairs;~~

~~((d)) (j) A certificate by the chief of police or his deputy, or a member of the Washington state patrol or a representative of the department, that the ~~((applicant has an established))~~ applicant's principal place of business ~~((at))~~ and each subagency business location in the state of Washington ~~((: PROVIDED, That))~~ meets the location requirements as required by this chapter. The certificate shall include proof of the applicant's ownership or lease of the real property where the applicant's principal place of business is established. In no event ~~((shall such))~~ may the certificate be issued by a member of the Washington state patrol if the dealership is located in a city which has a population in excess of five thousand persons;~~

~~((e)) (k) A copy of a current service agreement with a manufacturer, or distributor for a foreign manufacturer, requiring the applicant, upon demand of any customer receiving a new vehicle warranty to perform or arrange for, within a reasonable distance of his established place of business, the service repair and replacement work required of the manufacturer or distributor by such vehicle warranty ~~((: PROVIDED, That))~~. This requirement ~~((shall))~~ applies only ~~((apply))~~ to applicants seeking to sell, to exchange, to offer, ~~((to broker,))~~ to auction, to solicit, or to advertise new or current-model vehicles with factory or distributor warranties;~~

~~((f)) (l) The class of vehicles the vehicle dealer will be buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising, ~~((or for which the dealer will be providing or licensing for use facilities and/or services for compensation of any kind which bring together potential buyers and sellers,))~~ and which classification or classifications the dealer wishes to be designated as;~~

~~((g) The applicant's financial condition or history including whether the applicant or any partner, officer or director has ever been adjudged bankrupt or has any unsatisfied judgment in any federal or state court.~~

~~(3) If the applicant is a vehicle salesman, such application shall contain, in addition, a certification by the vehicle dealer for whom he is going~~

~~to work that he has examined the background of the applicant and to the best of his knowledge is of good moral character;~~

~~(4)) (m) Any other information the department may reasonably require.~~

(2) If the applicant is a manufacturer (~~(such))~~ the application shall contain the following information to the extent it is applicable to the applicant:

(a) The name and address of the principal place of business of the applicant and, if different, the name and address of the Washington state representative of the applicant;

(b) The name or names under which the applicant will do business in the state of Washington;

(c) Evidence that the applicant is authorized to do business in the state of Washington;

(d) The name or names of the vehicles that the licensee manufactures;

(e) The name or names and address or addresses of each and every distributor, factory branch, and factory representative;

(f) The name or names and address or addresses of resident employees or agents to provide service or repairs to vehicles located in the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured, 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;

(g) Any other information the department may reasonably require.

Sec. 9. Section 13, chapter 74, Laws of 1967 ex. sess. as last amended by section 1, chapter 251, Laws of 1979 ex. sess. and RCW 46.70.061 are each amended to read as follows:

(1) The annual fees for original licenses issued for ~~((a calendar year or any portion thereof pursuant to))~~ twelve consecutive months from the date of issuance under this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((Sixty))~~ Two hundred fifty dollars;

(b) Vehicle dealers, each ~~((and every))~~ subagency: ~~((Ten))~~ Twenty-five dollars; temporary subagency: Twenty-five dollars;

(c) ~~((Vehicle salespersons: Ten dollars;~~

~~(d))~~ Vehicle manufacturers: ~~((Sixty))~~ Two hundred fifty dollars.

(2) The annual fee for renewal of any license issued pursuant to this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((Fifty))~~ One hundred twenty-five dollars;

(b) Vehicle dealer, each and every subagency: ~~((Ten))~~ Twenty-five dollars;

(c) ~~((Vehicle salespersons: Ten dollars;~~

~~(d))~~ Vehicle manufacturers: ~~((Fifty))~~ One hundred twenty-five dollars.

~~((PROVIDED, That))~~ If any licensee fails or neglects to apply for such renewal ~~((prior to February 1st in each year))~~ within thirty days after the expiration of the license, or assigned renewal date under a staggered licensing system, the license shall be declared canceled by the director, in which case the licensee will be required to apply for an original license and pay the fee required for the original license.

(3) The fee for the transfer to another location of any license issued pursuant to this chapter shall be~~((:~~

~~(a) Vehicle dealer, principal place of business of each and every license classification, provided that such change is within the same county: Ten dollars;~~

~~(b) There shall be no transfer of any vehicle dealer subagency license;~~

~~(c) Vehicle salesperson, provided that no such fee shall be required in a transfer from one location of any one dealer to any other location: Five)) twenty-five dollars.~~

(4) The fee for vehicle dealer license plates and manufacturer license plates shall be the amount required by law for vehicle license plates exclusive of excise tax, except those specified in RCW 82.44.030, and gross weight and tonnage fees.

(5) All fees collected under this chapter shall be ~~((turned into))~~ deposited in the state treasury and credited to the motor vehicle fund.

(6) The fees prescribed ~~((herein shall be))~~ in this section are in addition to any excise taxes imposed by chapter 82.44 RCW.

Sec. 10. Section 13, chapter 74, Laws of 1967 ex. sess. as last amended by section 9 of this 1986 act and RCW 46.70.061 are each amended to read as follows:

(1) The annual fees for original licenses issued for twelve consecutive months from the date of issuance under this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((Two hundred fifty))~~ Five hundred dollars;

(b) Vehicle dealers, each subagency: ~~((Twenty-five))~~ Fifty dollars; temporary subagency: Twenty-five dollars;

(c) Vehicle manufacturers: ~~((Two hundred fifty))~~ Five hundred dollars.

(2) The annual fee for renewal of any license issued pursuant to this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((One hundred twenty-five))~~ Two hundred fifty dollars;

(b) Vehicle dealer, each and every subagency: Twenty-five dollars;

(c) Vehicle manufacturers: ~~((One hundred twenty-five))~~ Two hundred fifty dollars.

If any licensee fails or neglects to apply for such renewal within thirty days after the expiration of the license, or assigned renewal date under a

staggered licensing system, the license shall be declared canceled by the director, in which case the licensee will be required to apply for an original license and pay the fee required for the original license.

(3) The fee for the transfer to another location of any license issued pursuant to this chapter shall be twenty-five dollars.

(4) The fee for vehicle dealer license plates and manufacturer license plates shall be the amount required by law for vehicle license plates exclusive of excise tax, except those specified in RCW 82.44.030, and gross weight and tonnage fees.

(5) All fees collected under this chapter shall be deposited in the state treasury and credited to the motor vehicle fund.

(6) The fees prescribed in this section are in addition to any excise taxes imposed by chapter 82.44 RCW.

Sec. 11. Section 46.70.070, chapter 12, Laws of 1961 as last amended by section 1, chapter 152, Laws of 1981 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 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 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 who shall have suffered any loss or damage by reason of breach of warranty or by any act by a dealer which constitutes a violation of this chapter shall have the right to institute an action for recovery against such dealer and the surety upon such bond. Successive recoveries against said bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of said bond or cancellation of the bond by the surety the vehicle dealer license shall automatically be deemed canceled.

(2) The bond for any vehicle dealer licensed or to be licensed under more than one classification shall be the highest bond required for any such classification.

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

Sec. 12. Section 10, chapter 74, Laws of 1967 ex. sess. as last amended by section 1, chapter 109, Laws of 1985 and RCW 46.70.083 are each amended to read as follows:

The license of a vehicle dealer or a vehicle manufacturer expires on the date assigned by the director, and may be renewed by filing with the department prior to the expiration thereof an application containing such information as the department may require to indicate any material change in the information contained in the original application.

~~((Registration of a vehicle salesman expires on the date assigned by the director, and may be renewed by filing with the department prior to the expiration thereof an application containing such information as the department may require to indicate any material change in the information contained in the original application.))~~

Before renewal, the dealer's established place of business shall be certified by a representative of the department, the chief of police or his deputy, or a member of the Washington state patrol. The certification shall verify compliance with the requirements of this chapter for an established place of business. Failure by the dealer to comply is grounds for denial of the renewal application.

Sec. 13. Section 11, chapter 74, Laws of 1967 ex. sess. as last amended by section 5, chapter 152, Laws of 1981 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 vehicle salesman)~~) or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if ~~((he))~~ 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 ~~((defined))~~ required in this chapter;

(v) ~~((Employs an unlicensed salesman or one whose license has been denied, revoked within the last year, or is currently suspended, the terms of which have not been fulfilled;~~

~~((vi)))~~ Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

~~((vii)))~~ (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;

~~((viii)))~~ (vii) Is insolvent, either in the sense that ~~((his))~~ their liabilities exceed ~~((his))~~ their assets, or in the sense that ~~((he))~~ they cannot meet ~~((his))~~ their obligations as they mature;

~~((ix)))~~ (viii) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

~~((x)))~~ (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 wilfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates (~~(and)~~) or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices; (~~or~~)

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles;

(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.

(c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) (~~In the case of a vehicle salesman:~~

~~(a) Was the holder, or was a partner in a partnership or was an officer, director, or owner involved in the management of a corporation which was the holder, of a license issued pursuant to this chapter which was revoked for cause and never reissued, or was suspended and the terms of the suspension had not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;~~

~~(b) Has been adjudged guilty of a crime which directly relates to the business of a vehicle salesman and the time elapsed since the conviction is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purpose of this section, the term adjudged guilty means, in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended;~~

~~(c) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto or in any matter under investigation by the department;~~

~~(d) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;~~

~~(e) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;~~

~~(f) Has forged the signature of the registered or legal owner on a certificate of title;~~

~~(g) Has purchased, sold, disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;~~

~~(h) Has wilfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;~~

~~(i) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;~~

~~(j) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;~~

~~(k) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of such property or funds.~~

~~(3))~~ In the case of a manufacturer, or any partner, officer, director, or majority shareholder:

(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has knowingly or with reason to know, made a false statement of a material fact in his application for license, or any data attached thereto, or in any matter under investigation by the department;

(c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(d) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;

(e) Has purchased, sold, 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. 14. Section 12, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.102 are each amended to read as follows:

Upon the entry of the order under RCW 46.70.101 the director shall promptly notify the applicant or licensee(~~(, as well as the employer or prospective employer if the applicant or licensee is a salesman,)~~) that the order has been entered and of the reasons therefor and that if requested by the applicant or licensee within fifteen days after the receipt of the director's notification, the matter will be promptly set down for hearing pursuant to chapter 34.04 RCW. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, or his personal representative, after notice of and opportunity for hearing, may modify or vacate the order, or extend it until final determination. No final order may be entered under RCW 46.70.101 denying or revoking a license without appropriate prior notice to the applicant or licensee (~~((as well as the employer or prospective employer if the applicant or licensee is a salesman))),~~ opportunity for hearing, and written findings of fact and conclusions of law.

NEW SECTION. Sec. 15. A new section is added to chapter 46.70 RCW to read as follows:

If it appears to the director that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or a rule adopted or an order issued under this chapter, the director may issue an order directing the person to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing. The temporary order shall remain in effect until ten days after the hearing is held and

shall become final if the person to whom the notice is addressed does not request a hearing within fifteen days after receipt of the notice.

Sec. 16. Section 46.70.120, chapter 12, Laws of 1961 as amended by section 15, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.120 are each amended to read as follows:

A dealer shall complete and maintain for a period of at least five years a record of the purchase and sale of all vehicles purchased or sold by him (~~(which)~~). The records shall consist of:

(1) The license and title numbers of the state in which the last license was issued;

(2) A description of the vehicle; (~~(and)~~)

(3) The name and address of person from whom purchased; (~~(and)~~)

(4) The name of legal owner, if any; (~~(and)~~)

(5) The name and address of purchaser; (~~(and)~~)

(6) If purchased from a dealer, the name, business address, dealer license number, and resale tax number of the dealer;

(7) The price paid for the vehicle and the method of payment;

(8) The odometer statement given by the seller to the dealer, and the odometer statement given by the dealer to the purchaser;

(9) The written agreement to allow a dealer to sell between the dealer and the consignor, or the listing dealer and the seller;

(10) Trust account records of receipts, deposits, and withdrawals;

(11) All sale documents, which shall show the full name of dealer employees involved in the sale;

(12) Any additional information the department may require.

Such record shall be maintained separate and apart from all other business records of the dealer and shall at all times be available for inspection by the director or his duly authorized agent.

Sec. 17. Section 5, chapter 68, Laws of 1965 and RCW 46.70.170 are each amended to read as follows:

It (~~(shall be)~~) is a misdemeanor for any person to violate any of the provisions of this chapter, except where expressly provided otherwise, and the rules (~~(and regulations promulgated)~~) adopted as provided under this chapter.

Sec. 18. Section 16, chapter 74, Laws of 1967 ex. sess. as last amended by section 13, chapter 472, Laws of 1985 and RCW 46.70.180 are each amended to read as follows:

Each of the following acts or practices is (~~(hereby declared)~~) unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for 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.

Sec. 19. Section 21, chapter 74, Laws of 1967 ex. sess. as amended by section 19, chapter 132, Laws of 1973 1st ex. sess. 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(7)(b)~~) 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(7)(b)~~) 46.70.180(11)(b), with respect to matters arising prior to the date of said judgment.

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.

Sec. 20. Section 17, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.200 are each amended to read as follows:

The director shall revoke or refuse to issue a (~~motor~~) vehicle dealer's license for a franchise replacing a canceled or terminated franchise if a civil action pursuant to RCW 46.70.190 is pending and was filed within sixty days following the written notification of the cancellation or nonrenewal of an existing franchise and a certified copy of (~~said~~) the complaint alleging the date of said notification is filed with the department within said sixty days by the complaining motor vehicle dealer. The court may, however, in order to maintain adequate and competitive service in the area or upon a showing of good cause by the manufacturer, distributor, or factory branch order the director to issue (~~said motor~~) the vehicle dealer's license if the dealer complies with other sections of chapter 46.70 RCW.

Sec. 21. Section 18, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.210 are each amended to read as follows:

Upon the filing of a complaint pursuant to RCW 46.70.190 by a complaining (~~motor~~) vehicle dealer within sixty days following the written notification of the cancellation or nonrenewal of the existing franchise, any canceled or nonrenewed franchise of said complaining dealer shall stay in full force and effect until the complaint has been expeditiously disposed of,

unless the court, pursuant to RCW 46.70.200, has ordered the director to issue a ((motor)) vehicle dealer's license to a new franchisee.

If a new franchise is given by a manufacturer, distributor, or factory branch for the sale of the same make of ((motor)) vehicle in the same area of responsibility in that covered in ((said)) the canceled or terminated franchise, ((such act shall be)) that act is prima facie evidence that the new franchise replaced the canceled or terminated franchise.

Sec. 22. Section 24, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.260 are each amended to read as follows:

The provisions of this chapter shall be applicable to all franchises and contracts existing between ((motor)) vehicle dealers and manufacturers or factory branches and to all future franchises and contracts.

NEW SECTION. Sec. 23. A new section is added to chapter 46.70 RCW to read as follows:

Any violation of this chapter is deemed to affect the public interest and constitutes a violation of chapter 19.86 RCW.

NEW SECTION. Sec. 24. The following acts or parts of acts are each repealed:

(1) Section 8, chapter 74, Laws of 1967 ex. sess., section 10, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.081; and

(2) Section 9, chapter 74, Laws of 1967 ex. sess., section 5, chapter 74, Laws of 1971 ex. sess., section 11, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.082.

NEW SECTION. Sec. 25. The department shall report to the legislature as to the implementation of this act, and make any necessary recommendations for revisions by December 31, 1987.

NEW SECTION. Sec. 26. The department shall develop a specific plan for the full implementation of this act and shall report its findings to the legislative transportation committee by December 15, 1986. The plan shall include an evaluation of the feasibility of basing the annual license fee schedule on volume, rather than on the flat rates established in RCW 46.70.061, and shall consider the establishment of no fewer than five license fee categories.

NEW SECTION. Sec. 27. To carry out this act, the sum of three hundred seventy-five thousand dollars, or so much thereof as may be necessary, is appropriated to the department of licensing from the motor vehicle fund for the biennium ending June 30, 1987.

NEW SECTION. Sec. 28. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately, except section 9 of this act shall take effect July 1, 1986, and section 10 of this act shall take effect July 1, 1987.

Passed the Senate March 9, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 242

[Substitute Senate Bill No. 4547]

CROP LIENS

AN ACT Relating to crop liens; amending RCW 62A.9-310; adding a new chapter to Title 60 RCW; creating new sections; repealing RCW 60.12.010, 60.12.020, 60.12.030, 60.12.040, 60.12.060, 60.12.070, 60.12.080, 60.12.090, 60.12.100, 60.12.110, 60.12.120, 60.12.130, 60.12.140, 60.12.150, 60.12.160, 60.12.170, 60.12.180, 60.12.190, 60.12.200, 60.12.210, 60.14.010, 60.14.020, 60.14.030, 60.22.010, 60.22.020, and 60.22.030; and providing an effective date.

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

NEW SECTION. Sec. 1. DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Crop" means all products of the soil either growing or cropped, cut, or gathered which require annual planting, harvesting, or cultivating. A crop does not include vegetation produced by the powers of nature alone, nursery stock, or vegetation intended as a permanent enhancement of the land itself.

(2) "Landlord" means a person who leases or subleases to a tenant real property upon which crops are growing or will be grown.

(3) "Secured party" and "security interest" have the same meaning as used in the Uniform Commercial Code, Title 62A RCW.

(4) "Supplier" includes, but is not limited to, a person who furnishes seed, furnishes and/or applies commercial fertilizer, pesticide, fungicide, weed killer, or herbicide, including spraying and dusting, upon the land of the grower or landowner, or furnishes any work or labor upon the land of the grower or landowner including tilling, preparing for the growing of crops, sowing, planting, cultivating, cutting, digging, picking, pulling, or otherwise harvesting any crop grown thereon, or in gathering, securing, or housing any crop grown thereon, or in threshing any grain or hauling to any warehouse any crop or grain grown thereon.

(5) "Lien debtor" means the person who is obligated or owes payment or other performance. If the lien debtor and the owner of the collateral are not the same person, "lien debtor" means the owner of the collateral.

(6) "Lien holder" means a person who, by statute, has acquired a lien on the property of the lien debtor, or such person's successor in interest.

NEW SECTION. Sec. 2. PERSONS ENTITLED TO CROP LIENS; PROPERTY SUBJECT TO LIEN. (1) A landlord whose lease or other agreement with the tenant provides for cash rental payment shall have a lien upon all crops grown upon the demised land in which the landlord has an interest for no more than one year's rent due or to become due within six months following harvest. A landlord with a crop share agreement has an interest in the growing crop which shall not be encumbered by crop liens except as provided in subsection (2) of this section.

(2) A supplier shall have a lien upon all crops for which the supplies are used or applied to secure payment of the purchase price of the supplies and/or services performed: **PROVIDED,** That the landlord's interest in the crop shall only be subject to the lien for the amount obligated to be paid by the landlord if prior written consent of the landlord is obtained or if the landlord has agreed in writing with the tenant to pay or be responsible for a portion of the supplies and/or services provided by the lien holder.

NEW SECTION. Sec. 3. ATTACHMENT OF LIENS; ATTACHMENT OF PROCEEDS. Upon filing, the liens described in section 2 of this act shall attach to the crop for all sums then and thereafter due and owing the lien holder and shall continue in all identifiable cash proceeds of the crop.

NEW SECTION. Sec. 4. CLAIM OF LIEN; FILING; CONTENTS; DURATION. (1) Except as provided in subsection (4) of this section with respect to the lien of a landlord, any lien holder must after the commencement of delivery of such supplies and/or of provision of such services, but before the completion of the harvest of the crops for which the lien is claimed: (a) File a statement evidencing the lien with the department of licensing; and (b) if the lien holder is to be allowed costs, disbursements, and attorneys' fees, mail a copy of such statement to the last known address of the debtor by certified mail, return receipt requested, within ten days.

(2) The statement shall be in writing, signed by the claimant, and shall contain in substance the following information:

- (a) The name and address of the claimant;
- (b) The name and address of the debtor;
- (c) The date of commencement of performance for which the lien is claimed;
- (d) A description of the labor services, materials, or supplies furnished;
- (e) A description of the crop and its location to be charged with the lien sufficient for identification; and
- (f) The signature of the claimant.

(3) The department of licensing may by rule prescribe standard filing forms, fees, and uniform procedures for filing with, and obtaining information from, filing officers, including provisions for filing crop liens together with financing statements filed pursuant to RCW 62A.9-401 so that one request will reveal all filed crop liens and security interests.

(4) Any landlord claiming a lien under this chapter for rent shall file a statement evidencing the lien with the department of licensing. A lien for rent claimed by a landlord pursuant to this chapter shall be effective during the term of the lease for a period of up to five years. A landlord lien covering a lease term longer than five years may be refiled in accordance with section 5(4) of this act. A landlord who has a right to a share of the crop may place suppliers on notice by filing evidence of such interest in the same manner as provided for filing a landlord's lien.

NEW SECTION. Sec. 5. PRIORITIES OF LIENS AND SECURITY INTERESTS. (1) Except as provided in subsections (2), (3), and (4) of this section, conflicting liens and security interests shall rank in accordance with the time of filing.

(2) The lien created in section 2(2) of this act in favor of any person who furnishes any work or labor upon the land of the grower or landowner shall be preferred and prior to any other lien or security interest upon the crops to which they attach including the liens described in subsections (3) and (4) of this section.

(3) A lien or security interest in crops otherwise entitled to priority pursuant to subsection (1) of this section shall be subordinate to a later filed lien or security interest to the extent that obligations secured by such earlier filed security interest or lien were not incurred to produce such crops.

(4) A lien or security interest in crops otherwise entitled to priority pursuant to subsection (1) of this section shall be subordinate to a properly filed landlord's lien. A landlord's lien shall retain its priority if refiled within six months prior to its expiration.

NEW SECTION. Sec. 6. FORECLOSURE OF CROP LIEN. Any lien subject to this chapter, excluded by RCW 62A.9-104 from the provisions of the Uniform Commercial Code, Title 62A RCW, may be foreclosed by an action in the superior court having jurisdiction in the county in which the real property on which the crop in question was grown is situated in accordance with section 7 of this act or it may be foreclosed by summary procedure as provided in section 8 of this act.

NEW SECTION. Sec. 7. JUDICIAL FORECLOSURE. The lien holder may proceed upon his or her lien; and if there is a separate obligation in writing to pay the same, secured by the lien, he or she may bring suit upon such separate promise. When he or she proceeds on the promise, if there is a specific agreement therein contained, for the payment of a certain sum or there is a separate obligation for the sum in addition to a decree of sale of lien property, judgment shall be rendered for the amount due upon the promise or other instrument, the payment of which is thereby secured; the decree shall direct the sale of the lien property and if the proceeds of the sale are insufficient under the execution, the sheriff is authorized to levy

upon and sell other property of the lien debtor, not exempt from execution, for the sum remaining unsatisfied.

NEW SECTION. Sec. 8. SUMMARY FORECLOSURE. (1) A lien may be summarily foreclosed by notice and sale as provided in this section. The lien holder may sell or otherwise dispose of the collateral in its existing condition or following any commercially reasonable preparation or processing. The proceeds of disposition shall be applied in the order following to:

(a) The reasonable expenses of retaking, holding, preparing for sale, selling and the like, and to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) The satisfaction of indebtedness secured by the lien under which the disposition is made;

(c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the lien holder, the holder of a subordinate security interest must seasonably furnish reasonable proof of his or her interest, and unless he or she does so, the lien holder need not comply with the demand.

(2) The lien holder shall account to the lien debtor for any surplus, and, unless otherwise agreed, the lien debtor is not liable for any deficiency.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place, and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline quickly in value or is of a type customarily sold on a recognized market, reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the lien holder to the lien debtor, and to any other person who has a duly filed crop lien, or who has a security interest in the collateral and has duly filed a financing statement indexed in the name of the lien debtor in this state, or who is known by the lien holder to have a security interest or crop lien in the collateral. The lien holder may buy at any public sale, and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations the lien holder may buy at private sale.

NEW SECTION. Sec. 9. RIGHTS AND INTEREST OF PURCHASER FOR VALUE. When a lien is foreclosed in accordance with section 6 of this act, the disposition transfers to a purchaser for value all of the lien debtor's right therein and discharges the lien under which it is made and any security interest or lien subordinate thereto. The purchaser takes

free of all such rights and interest even though the lien holder fails to comply with the requirements of this chapter or of any judicial proceedings under section 7 of this act:

(1) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he or she does not buy in collusion with the lien holder, other bidders, or the person conducting the sale; or

(2) In any other case, if the purchaser acts in good faith.

NEW SECTION. Sec. 10. REDEMPTION. At any time before the lien holder has disposed of collateral or entered into a contract for its disposition under section 6 of this act, the lien debtor or any other secured party may redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the lien holder in holding and preparing the collateral for disposition and in arranging for the sale and his or her reasonable attorneys' fees and legal expenses.

NEW SECTION. Sec. 11. NONCOMPLIANCE WITH CHAPTER—RIGHTS OF LIEN DEBTOR. If the lien holder is not proceeding in accordance with the provisions of this chapter, disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the lien debtor or any person entitled to notification or whose security interest has been made known to the lien holder prior to the disposition has a right to recover from the lien holder any loss caused by a failure to comply with the provisions of this chapter.

NEW SECTION. Sec. 12. "COMMERCIALLY REASONABLE." The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the lien holder is not in itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the lien holder either sells the collateral in the usual manner in any recognized market therefor or if he or she sells at the price current in such market at the time of the sale or if he or she has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he or she has sold in a commercially reasonable manner. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this does not mean that approval must be obtained in any case nor does it mean that any disposition not so approved is not commercially reasonable.

For purposes of this chapter, "commercially reasonable" shall be construed in a manner consistent with this section.

NEW SECTION. Sec. 13. LIMITATION OF ACTION TO FORECLOSE—COSTS. Judicial foreclosure or summary procedure as provided in section 6 of this act shall be brought within twenty-four calendar months after filing the claim for lien, except in the case of a landlord lien

which shall be twenty-four calendar months from the date of default on the lease, and upon expiration of such time, the claimed lien shall expire. In a judicial foreclosure, the court shall allow reasonable attorneys' fees and disbursement for establishing a lien.

NEW SECTION. Sec. 14. LIEN TERMINATION STATEMENT.

(1) Whenever the total amount of the lien has been fully paid, the lien holder shall, within fifteen days following receipt of full payment, file its lien termination statement with the department of licensing. Failure to file a lien termination statement by the lien holder or the assignee of the lien holder shall cause the lien holder or its assignee to be liable to the debtor for the attorneys' fees and costs incurred by the debtor to have the lien terminated together with damages incurred by the debtor due to the failure of the lien holder to terminate the lien.

(2) There shall be no charge by the department of licensing for entering the lien termination statement and indexing the same and returning a copy of the lien termination statement stamped as "filed" with the filing date thereon.

(3) The department of licensing may enter the lien termination statement on microfilm or other photographic record and destroy all originals of the lien and lien satisfaction filed with him or her.

NEW SECTION. Sec. 15. Liens created prior to the effective date of this act, which are based on statutes repealed by this act, shall remain in effect for the duration provided by the law in effect before the effective date of this act. The department of licensing shall notify persons requesting information for crop liens that, for this transition period, records of crop liens may exist at a county auditor's office as well as at the department of licensing.

Sec. 16. Section 9-310, chapter 157, Laws of 1965 ex. sess. as last amended by section 10, chapter 412, Laws of 1985 and RCW 62A.9-310 are each amended to read as follows:

(1) When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest only if the lien is statutory and the statute expressly provides for such priority.

(2) A preparer lien or processor lien properly created pursuant to chapter 60.13 RCW (~~((sections 1 through 7 of this 1985 act))~~) or a depositor's lien created pursuant to chapter 22.09 RCW takes priority over any perfected or unperfected security interest.

(3) (~~(A commercial fertilizer, pesticide, or weed killer lien takes priority over any perfected or unperfected security interest for which no new value was provided if materials or services were given to enable the debtor~~

~~to produce the crops during the production season))~~ Conflicting priorities between nonpossessory crop liens created under sections 1 through 14 of this 1986 act and security interests shall be governed by chapter 60.— RCW (sections 1 through 14 of this 1986 act).

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 256, Laws of 1927, section 1, chapter 32, Laws of 1933 and RCW 60.12.010;

(2) Section 2, chapter 256, Laws of 1927 and RCW 60.12.020;

(3) Section 3, chapter 256, Laws of 1927, section 2, chapter 336, Laws of 1955 and RCW 60.12.030;

(4) Section 4, chapter 256, Laws of 1927, section 1, chapter 119, Laws of 1933 and RCW 60.12.040;

(5) Section 5, chapter 256, Laws of 1927 and RCW 60.12.060;

(6) Section 6, chapter 256, Laws of 1927, section 2, chapter 32, Laws of 1933, section 11, chapter 44, Laws of 1985 and RCW 60.12.070;

(7) Section 7, chapter 256, Laws of 1927, section 5, chapter 336, Laws of 1955 and RCW 60.12.080;

(8) Section 8, chapter 256, Laws of 1927 and RCW 60.12.090;

(9) Section 9, chapter 256, Laws of 1927 and RCW 60.12.100;

(10) Section 10, chapter 256, Laws of 1927 and RCW 60.12.110;

(11) Section 11, chapter 256, Laws of 1927 and RCW 60.12.120;

(12) Section 12, chapter 256, Laws of 1927, section 2, chapter 119, Laws of 1933 and RCW 60.12.130;

(13) Section 13, chapter 256, Laws of 1927 and RCW 60.12.140;

(14) Section 14, chapter 256, Laws of 1927 and RCW 60.12.150;

(15) Section 15, chapter 256, Laws of 1927 and RCW 60.12.160;

(16) Section 16, chapter 256, Laws of 1927 and RCW 60.12.170;

(17) Section 1, chapter 336, Laws of 1955, section 1, chapter 226, Laws of 1959 and RCW 60.12.180;

(18) Section 3, chapter 336, Laws of 1955, section 12, chapter 44, Laws of 1985 and RCW 60.12.190;

(19) Section 4, chapter 336, Laws of 1955 and RCW 60.12.200;

(20) Section 6, chapter 336, Laws of 1955 and RCW 60.12.210;

(21) Section 1, chapter 217, Laws of 1955 and RCW 60.14.010;

(22) Section 2, chapter 217, Laws of 1955 and RCW 60.14.020;

(23) Section 3, chapter 217, Laws of 1955 and RCW 60.14.030;

(24) Section 1, chapter 264, Laws of 1961, section 9, chapter 412, Laws of 1985 and RCW 60.22.010;

(25) Section 2, chapter 264, Laws of 1961, section 1, chapter 21, Laws of 1977 and RCW 60.22.020; and

(26) Section 3, chapter 264, Laws of 1961 and RCW 60.22.030.

NEW SECTION. Sec. 18. As used in this act, section captions constitute no part of the law.

NEW SECTION. Sec. 19. 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. 20. Sections 1 through 14 of this act shall constitute a new chapter in Title 60 RCW.

NEW SECTION. Sec. 21. This act shall take effect January 1, 1987.

Passed the Senate March 9, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 243

[Engrossed Senate Bill No. 4582]

HEALTH CARE CLAIMS—FRAUD

AN ACT Relating to fraud in the obtaining of health care benefits; adding a new chapter to Title 48 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds and declares that the welfare of the citizens of this state is threatened by the spiraling increases in the cost of health care. It is further recognized that fraudulent health care claims contribute to these increases in health care costs. In recognition of these findings, it is declared that special attention must be directed at eliminating the unjustifiable costs of fraudulent health care claims by establishing specific penalties and deterrents. This chapter may be known and cited as "the health care false claim act."

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Claim" means any attempt to cause a health care payer to make a health care payment.

(2) "Deceptive" means presenting a claim to a health care payer that contains a statement of fact or fails to reveal a material fact, leading the health care payer to believe that the represented or suggested state of affairs is other than it actually is. For the purposes of this chapter, the determination of what constitutes a material fact is a question of law to be resolved by the court.

(3) "False" means wholly or partially untrue or deceptive.

(4) "Health care payment" means a payment for health care services or the right under a contract, certificate, or policy of insurance to have a payment made by a health care payer for a specified health care service.

(5) "Health care payer" means any insurance company authorized to provide health insurance in this state, any health care service contractor

authorized under chapter 48.44 RCW, any health maintenance organization authorized under chapter 48.46 RCW, any legal entity which is self-insured and providing health care benefits to its employees, or any person responsible for paying for health care services.

(6) "Person" means an individual, corporation, partnership, association, or other legal entity.

(7) "Provider" means any person lawfully licensed or authorized to render any health service.

NEW SECTION. Sec. 3. (1) A person shall not make or present or cause to be made or presented to a health care payer a claim for a health care payment knowing the claim to be false.

(2) No person shall knowingly present to a health care payer a claim for a health care payment that falsely represents that the goods or services were medically necessary in accordance with professionally accepted standards. Each claim that violates this subsection shall constitute a separate offense.

(3) No person shall knowingly make a false statement or false representation of a material fact to a health care payer for use in determining rights to a health care payment. Each claim that violates this subsection shall constitute a separate violation.

(4) No person shall conceal the occurrence of any event affecting his or her initial or continued right under a contract, certificate, or policy of insurance to have a payment made by a health care payer for a specified health care service. A person shall not conceal or fail to disclose any information with intent to obtain a health care payment to which the person or any other person is not entitled, or to obtain a health care payment in an amount greater than that which the person or any other person is entitled.

(5) A person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(6) This section does not apply to statements made on an application for coverage under a contract or certificate of health care coverage issued by an insurer, health care service contractor, health maintenance organization, or other legal entity which is self-insured and providing health care benefits to its employees.

NEW SECTION. Sec. 4. In a prosecution under this chapter, circumstantial evidence may be presented to demonstrate that a false statement or claim was knowingly made. Such evidence may include but shall not be limited to the following circumstances:

(1) Where a claim for a health care payment is submitted with the person's actual, facsimile, stamped, typewritten, or similar signature on the form required for the making of a claim for health care payment; and

(2) Where a claim for a health care payment is submitted by means of computer billing tapes or other electronic means if the person has advised

the health care payer in writing that claims for health care payment will be submitted by use of computer billing tapes or other electronic means.

NEW SECTION. Sec. 5. This chapter shall not be construed to prohibit or limit a prosecution of or civil action against a person for the violation of any other law of this state.

NEW SECTION. Sec. 6. Upon the conviction under this chapter of any provider, the prosecutor shall provide written notification to the appropriate regulatory or disciplinary agency of such conviction.

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 7 of this act shall constitute a new chapter in Title 48 RCW.

Passed the Senate March 8, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 244

[Engrossed Substitute Senate Bill No. 4717]

WATER QUALITY—WATER POLLUTION CONTROL FACILITIES—SERVICE PROVIDER AGREEMENTS

AN ACT Relating to water quality services; adding a new section to chapter 35.23 RCW; adding a new section to chapter 35.94 RCW; adding a new section to chapter 36.34 RCW; adding a new section to chapter 39.04 RCW; adding a new section to chapter 54.04 RCW; adding a new section to chapter 56.08 RCW; adding a new section to chapter 57.08 RCW; adding a new chapter to Title 70 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. The long-range health and economic and environmental goals for the state of Washington require the protection of the state's surface and underground waters for the health, safety, use, and enjoyment of its people. It is the purpose of this chapter to provide public bodies an additional means by which to provide for financing, development, and operation of water pollution control facilities needed for achievement of state and federal water pollution control requirements for the protection of the state's waters.

It is the intent of the legislature that public bodies be authorized to provide service from water pollution control facilities by means of service agreements with public or private parties as provided in this chapter.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Water pollution control facilities" or "facilities" means any facilities, systems, or subsystems owned or operated by a public body, or owned or operated by any person or entity for the purpose of providing service to a public body, for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, residential wastes, commercial wastes, industrial wastes, and agricultural wastes, that are causing or threatening the degradation of subterranean or surface bodies of water due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities do not include dams or water supply systems.

(2) "Public body" means the state of Washington or any agency, county, city or town, political subdivision, municipal corporation, or quasi-municipal corporation.

(3) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any surface or subterranean waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(4) "Agreement" means any agreement to which a public body and a service provider are parties by which the service provider agrees to deliver service to such public body in connection with its design, financing, construction, ownership, operation, or maintenance of water pollution control facilities in accordance with this chapter.

(5) "Service provider" means any privately owned or publicly owned profit or nonprofit corporation, partnership, joint venture, association, or other person or entity that is legally capable of contracting for and providing service with respect to the design, financing, ownership, construction, operation, or maintenance of water pollution control facilities in accordance with this chapter.

NEW SECTION. Sec. 3. (1) Public bodies may enter into agreements with service providers for the furnishing of service in connection with water pollution control facilities pursuant to the process set forth in section 4 of this act. The agreements may provide that a public body pay a minimum periodic fee in consideration of the service actually available without regard to the amount of service actually used during all or any part of the contractual period. Agreements may be for a term not to exceed forty years or the life of the facility, whichever is longer, and may be renewable.

(2) The source of funds to meet periodic payment obligations assumed by a public body pursuant to an agreement permitted under this section

may be paid from taxes, or solely from user fees, charges, or other revenues pledged to the payment of the periodic obligations, or any of these sources.

NEW SECTION. Sec. 4. The legislative authority of a public body may secure services by means of an agreement with a service provider. Such an agreement may obligate a service provider to design, finance, construct, own, operate, or maintain water pollution control facilities by which services are provided to the public body. Service agreements and related agreements under this chapter shall be entered into in accordance with the following procedure:

(1) The legislative authority of the public body shall publish notice that it is seeking to secure certain specified services by means of entering into an agreement with a service provider. The notice shall be published in the official newspaper of the public body, or if there is no official newspaper then in a newspaper in general circulation within the boundaries of the public body, at least once each week for two consecutive weeks. The final notice shall appear not less than sixty days before the date for submission of proposals. The notice shall state (a) the nature of the services needed, (b) the location in the public body's offices where the requirements and standards for construction, operation, or maintenance of projects needed as part of the services are available for inspection, and (c) the final date for the submission of proposals. The legislative authority may undertake a prequalification process by the same procedure set forth in this subsection.

(2) The request for proposals shall (a) indicate the time and place responses are due, (b) include evaluation criteria to be considered in selecting a service provider, (c) specify minimum requirements or other limitations applying to selection, (d) insofar as practicable, set forth terms and provisions to be included in the service agreement, and (e) require the service provider to demonstrate in its proposal that a public body's annual costs will be lower under its proposal than they would be if the public body financed, constructed, owned, operated, and maintained facilities required for service.

(3) The criteria set forth in the request for proposals shall be those determined to be relevant by the legislative authority of the public body, which may include but shall not be limited to: The respondent's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability, and financial resources; cost of the service; nature of facility design proposed by respondents; 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 body; project performance warranties; penalty and other enforcement provisions; environmental protection measures to be used; and allocation of project risks. The legislative authority shall designate persons or entities (a) to assist it in issuing the request for proposals to ensure that proposals will be responsive to its needs, and (b) to

assist it in evaluating the proposals received. The designee shall not be a member of the legislative authority.

(4) After proposals under subsections (1) through (3) of this section have been received, the legislative authority's designee shall determine, on the basis of its review of the proposals, whether one or more proposals have been received from respondents which are (a) determined to be qualified to provide the requested services, and (b) responsive to the notice and evaluation criteria, which shall include, but not be limited to, cost of services. These chosen respondents shall be referred to as the selected respondents in this section. The designee shall conduct a bidder's conference to include all these selected respondents to assure a full understanding of the proposals. The bidder's conference shall also allow the designee to make these selected respondents aware of any changes in the request for proposal. Any information related to revisions in the request for proposal shall be made available to all these selected respondents. Any selected respondent shall be accorded a reasonable opportunity for revision of its proposal prior to commencement of the negotiation provided in subsection (5) of this section, for the purpose of obtaining best and final proposals.

(5) After such conference is held, the designee may negotiate with the selected respondent whose proposal it determines to be the most advantageous to the public body, considering the criteria set forth in the request for proposals. If the negotiation is unsuccessful, the legislative authority may authorize the designee to commence negotiations with any other selected respondent. On completion of this process, the designee shall report to the legislative authority on his or her recommendations and the reasons for them.

(6) Any person aggrieved by the legislative authority's approval of a contract may appeal the determination to an appeals board selected by the public body, which shall consist of not less than three persons determined by the legislative authority to be qualified for such purposes. Such board shall promptly hear and determine whether the public body entered into the agreement in accordance with this chapter and other applicable law. The hearing shall be conducted in the same manner as contested a case under chapter 34.04 RCW. The board shall have the power only to affirm or void the agreement.

(7) Notwithstanding the foregoing, where contracting for design services by the public body is done separately from contracting for other services permitted under this chapter, the contracting for design of water pollution control facilities shall be done in accordance with chapter 39.80 RCW.

(8) A service agreement shall include provision for an option by which a public body may acquire at fair market value facilities dedicated to such service.

(9) Before any service agreement is entered into by the public body, it shall be reviewed and approved by the department of ecology to ensure that the purposes of chapter 90.48 RCW are implemented.

(10) Prior to entering into any service agreement under this chapter, the public body must have made written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the service agreement and that the service agreement is financially sound and advantageous compared to other methods.

(11) Each service agreement shall include project performance bonds or other security by the service provider which in the judgment of the public body is sufficient to secure adequate performance by the service provider.

NEW SECTION. Sec. 5. A public body may sell, lease, or assign public property for fair market value to any service provider as part of a service agreement entered into under the authority of this chapter. The property sold or leased shall be used by the provider, directly or indirectly, in providing services to the public body. Such use may include demolition, modification, or other use of the property as may be necessary to execute the purposes of the service agreement.

NEW SECTION. Sec. 6. A public body that enters into a service agreement pursuant to this chapter, under which a facility is owned wholly or partly by a service provider, shall be eligible for grants or loans to the extent permitted by law or regulation as if the entire portion of the facility dedicated to service to such public body were publicly owned. The grants or loans shall be made to and shall inure to the benefit of the public body and not the service provider. Such grants or loans shall be used by the public body for all or part of its ownership interest in the facility, and/or to defray a part of the payments it makes to the service provider under a service agreement if such uses are permitted under the grant or loan program.

NEW SECTION. Sec. 7. Sections 3 through 6 of this act shall be deemed to provide an additional method for the provision of services from and in connection with facilities and shall be regarded as supplemental and additional to powers conferred by other state laws and by federal laws.

NEW SECTION. Sec. 8. (1) The provisions of chapters 39.12, 39.19, and 39.25 RCW shall apply to a service agreement entered into under this act to the same extent as if the facilities dedicated to such service were owned by a public body.

(2) Subsection (1) of this section shall not be construed to apply to agreements or actions by persons or entities which are not undertaken pursuant to this act.

(3) Except for section 13 of this act, this act shall not be construed as a limitation or restriction on the application of Title 39 RCW to public bodies.

(4) Prevailing wages shall be established as the prevailing wage in the largest city of the county in which facilities are built.

NEW SECTION. Sec. 9. This chapter may be cited as the water quality joint development act.

NEW SECTION. Sec. 10. A new section is added to chapter 35.23 RCW to read as follows:

RCW 35.23.352 does not apply to agreements entered into under authority of chapter 70.— RCW (sections 1 through 9 of this act) provided there is compliance with the procurement procedure under section 4 of this act.

NEW SECTION. Sec. 11. A new section is added to chapter 35.94 RCW to read as follows:

This chapter does not apply to dispositions of utility property in connection with an agreement entered into pursuant to chapter 70.— RCW (sections 1 through 9 of this act) provided there is compliance with the procurement procedure under section 4 of this act.

NEW SECTION. Sec. 12. A new section is added to chapter 36.34 RCW to read as follows:

RCW 36.34.150 through 36.34.190 shall not apply to agreements entered into pursuant to chapter 70.— RCW (sections 1 through 9 of this act) provided there is compliance with the procurement procedure under section 4 of this act.

NEW SECTION. Sec. 13. A new section is added to chapter 39.04 RCW to read as follows:

This chapter does not apply to agreements entered into under authority of chapter 70.— RCW (sections 1 through 9 of this act) provided there is compliance with the procurement procedure under section 4 of this act.

NEW SECTION. Sec. 14. A new section is added to chapter 54.04 RCW to read as follows:

RCW 54.04.070 through 54.04.090 shall not apply to agreements entered into under authority of chapter 70.— RCW (sections 1 through 9 of this act) provided there is compliance with the procurement procedure under section 4 of this act.

NEW SECTION. Sec. 15. A new section is added to chapter 56.08 RCW to read as follows:

RCW 56.08.070, 56.08.080 through 56.08.090, and 56.08.120 through 56.08.160 shall not apply to an agreement entered into under authority of chapter 70.— RCW (sections 1 through 9 of this act) provided there is compliance with the procurement procedure under section 4 of this act.

NEW SECTION. Sec. 16. A new section is added to chapter 57.08 RCW to read as follows:

RCW 57.08.015, 57.08.016, 57.08.050, 57.08.120, and 57.08.130 shall not apply to agreements entered into under authority of chapter 70.—RCW (sections 1 through 9 of this act) provided there is compliance with the procurement procedure under section 4 of this act.

NEW SECTION. Sec. 17. Sections 1 through 9 of this act shall constitute a new chapter in Title 70 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 is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 245

[Substitute Senate Bill No. 4766]
RESIDENTIAL SPACE HEATING

AN ACT Relating to residential space heating; amending RCW 35.21.300, 35.21.301, 54.16.285, 54.16.286, 80.28.010, and 80.28.011; repealing RCW 54.16.290; and providing an expiration date.

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

Sec. 1. Section 35.21.300, chapter 7, Laws of 1965 as last amended by section 3, chapter 6, Laws of 1985 and RCW 35.21.300 are each amended to read as follows:

(1) The lien for charges for service by a city waterworks, or electric light or power plant may be enforced only by cutting off the service until the delinquent and unpaid charges are paid, except that until June 30, ~~((+1986))~~ 1990, electricity for residential space heating may be terminated between November 15 and March 15 only as provided in subsections (2) and (3) of this section. In the event of a disputed account and tender by the owner of the premises of the amount he claims to be due before the service is cut off, the right to refuse service to any premises shall not accrue until suit has been entered by the city and judgment entered in the case.

(2) Until June 30, ~~((+1986))~~ 1990:

(a) Electricity for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(i) Notifies the utility of the inability to pay the bill, including a security deposit. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(ii) ~~((Brings a statement from the department of social and health services or))~~ Provides self-certification of household income for the prior twelve months to a grantee of the department of community development which administers federally funded energy assistance programs(;;). The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and ((which provides)) shall provide a dollar figure that is seven percent of household income. The grantee may verify information in the self-certification;

(iii) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(iv) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is ~~((applicable))~~ available for the dwelling;

(v) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but ~~((the plan))~~ shall not be ~~((invalidated))~~ in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(vi) Agrees to pay the moneys owed even if he or she moves.

(b) The utility shall:

(i) Include in any notice that an account is delinquent and that service may be subject to termination ~~((and))~~, a description of the customer's duties in this ~~((subsection))~~ section;

(ii) Assist the customer in fulfilling the requirements under this ~~((subsection))~~ section;

(iii) Be authorized to transfer an account to a new residence when a customer who has established a plan under this ~~((subsection))~~ section moves from one residence to another within the same utility service area; and

(iv) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this ~~((subsection))~~ section. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected.

(3) All municipal utilities shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(4) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter.

Sec. 2. Section 5, chapter 251, Laws of 1984 and RCW 35.21.301 are each amended to read as follows:

Until ~~((1986))~~ 1990, cities and towns distributing electricity shall report annually to the legislature for utilities subject to its jurisdiction: (1) The extent to which chapter ~~((251))~~ —, Laws of ~~((1984))~~ 1986 (Senate Bill No. —, S-3509/86) benefits low income persons, and (2) the costs and benefits to other customers.

This section shall expire June 30, ~~((1986))~~ 1990.

Sec. 3. Section 2, chapter 251, Laws of 1984 as amended by section 19, chapter 6, Laws of 1985 and RCW 54.16.285 are each amended to read as follows:

(1) A district providing utility service for residential space heating shall not terminate such utility service between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(b) ~~((Brings a statement from the department of social and health services or))~~ Provides self-certification of household income for the prior twelve months to a grantee of the department of community development which administers federally funded energy assistance programs(;;) . The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and ((which provides)) shall provide a

dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is ~~((applicable))~~ available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but ~~((the plan))~~ shall not be ~~((invalidated))~~ in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(2) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination ~~((and))~~, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area; and

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this section. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected.

(3) All districts providing utility service for residential space heating shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-

income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(4) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter.

(5) This section shall expire June 30, ((+1986)) 1990.

Sec. 4. Section 6, chapter 251, Laws of 1984 and RCW 54.16.286 are each amended to read as follows:

Until ((+1986)) 1990, districts distributing electricity shall report annually to the legislature ((for utilities subject to its jurisdiction)): (1) The extent to which chapter ((251)) —, Laws of ((1984)) 1986 (Senate Bill No. —, S-3509/86) benefits low income persons, and (2) the costs and benefits to other customers.

This section shall expire June 30, ((+1986)) 1990.

Sec. 5. Section 80.28.010, chapter 14, Laws of 1961 as last amended by section 25, chapter 6, Laws of 1985 and RCW 80.28.010 are each amended to read as follows:

(1) All charges made, demanded or received by any gas company, electrical company or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient.

(2) Every gas company, electrical company and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company or water company, affecting or pertaining to the sale or distribution of its product, shall be just and reasonable.

(4) Until June 30, ((+1986)) 1990:

(a) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(i) Notifies the utility of the inability to pay the bill, including a security deposit. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(ii) ~~((Brings a statement from the department of social and health services or))~~ Provides self-certification of household income for the prior twelve months to a grantee of the department of community development which administers federally funded energy assistance programs(;;). The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and ~~((which provides))~~ shall provide a

dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;

(iii) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(iv) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is ~~((applicable))~~ available for the dwelling;

(v) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but ~~((the plan))~~ shall not be ~~((invalidated))~~ in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(vi) Agrees to pay the moneys owed even if he or she moves.

(b) The utility shall:

(i) Include in any notice that an account is delinquent and that service may be subject to termination ~~((and))~~, a description of the customer's duties in this ~~((subsection))~~ section;

(ii) Assist the customer in fulfilling the requirements under this ~~((subsection))~~ section;

(iii) Be authorized to transfer an account to a new residence when a customer who has established a plan under this ~~((subsection))~~ section moves from one residence to another within the same utility service area; and

(iv) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected.

(c) A payment plan implemented under this ~~((subsection))~~ section is consistent with RCW 80.28.080.

(5) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(6) Every gas company, electrical company and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product as will be efficient and safe to its employees and the public.

(7) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter.

Sec. 6. Section 7, chapter 251, Laws of 1984 and RCW 80.28.011 are each amended to read as follows:

Until ((1986)) 1990, the Washington utilities and transportation commission shall report annually to the legislature for utilities subject to its jurisdiction: (1) The extent to which chapter ((251)) —, Laws of ((1984)) 1986 (Senate Bill No. —, S-3509/86) benefits low income persons, and (2) the costs and benefits to other customers. The commission shall also review its policies and the policies of gas and electric utilities under its jurisdiction on involuntary termination of gas or electric utility service, discontinuance of service, and responsibility for delinquent accounts, for all residential customers and undertake good faith efforts to adopt policies which apply to all residential customers in a similar fashion to minimize uncollectible customer billings and to encourage customer payments of prior service obligations in a manner consistent with applicable state and federal law. This review shall be completed and a report on the review supplied to the energy and utilities committees of the legislature by January 1, 1987.

This section shall expire June 30, ((1986)) 1990.

NEW SECTION. Sec. 7. Section 3, chapter 251, Laws of 1984 and RCW 54.16.290 are each repealed.

Passed the Senate March 9, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 246

[Substitute Senate Bill No. 4783]

UNIFORM CONTROLLED SUBSTANCES ACT—DISPOSITION OF PROCEEDS FORFEITED

AN ACT Relating to the distribution of proceeds forfeited under the uniform controlled substances act; and adding a new section to chapter 43.17 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.17 RCW to read as follows:

(1) Each state agency is authorized to receive property or money made available by the attorney general of the United States under section 881(c) of Title 21 of the United States Code and, except as required to the contrary under subsection (2) of this section, to use the property or spend the money for such purposes as are permitted under both federal law and the state law specifying the powers and duties of the agency.

(2) Unless precluded by federal law, all funds received by a state agency under section 881(c) of Title 21 of the United States Code shall be promptly deposited into the public safety and education account established in RCW 43.08.250.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 247

[Substitute Senate Bill No. 4923]

TAX EXEMPT BONDS—ALLOCATION OF THE STATE CEILING

AN ACT Relating to the allocation of the state ceiling on the issuance of certain tax exempt bonds under federal tax law; adding a new section to chapter 39.86 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. Sections 701 through 703 of the proposed "Tax Reform Act of 1985" (H.R. 3838), which has been adopted by the United States House of Representatives, would, if enacted, change federal tax law regarding the allocation of the maximum amount of certain tax exempt bonds that may be issued in the state, effective retroactively to January 1, 1986, or such other effective date as may be adopted. Existing Washington law enacted as part of chapter 446, Laws of 1985 (chapter 39.86 RCW) sets forth a method for allocating the state ceiling for certain tax exempt bonds under existing federal law. The allocation formula contained

in chapter 39.86 RCW would become ineffective for federal tax law purposes from the effective date of H.R. 3838 if H.R. 3838 were enacted. So long as H.R. 3838 is pending with such a retroactive effective date, tax exempt bonds cannot be adequately allocated in an orderly manner under existing state law. It is the intent of the legislature to authorize the governor to promulgate an interim, alternative allocation mechanism to insure the orderly issuance of tax exempt bonds until the legislature can review federal tax law changes, if and when finally enacted, and consider a revised allocation mechanism.

NEW SECTION. Sec. 2. A new section is added to chapter 39.86 RCW to read as follows:

The governor is authorized to establish by executive order an alternative system for the allocation of tax exempt bonds under any new unified volume limitation provided by section 701(b) of H.R. 3838 or other federal legislation, including housing-related bonds. The allocation of the state ceiling on the issuance of certain tax exempt bonds under federal tax law may be determined under RCW 39.86.010 through 39.86.060, under this section, or under both RCW 39.86.010 through 39.86.060 and this section to the extent necessary for federal tax law purposes. The authority delegated to the governor under this section shall constitute a "different formula for allocating the state ceiling" as that term is used in section 701(b) of H.R. 3838. The governor may from time to time allocate or reallocate some or all of the state ceiling on tax exempt bonds under any new unified volume limitation. In allocating or reallocating under this section, the governor shall take into account the requirements of federal law, the policy choices expressed in state law, the projected needs of issues of tax exempt bonds in the state and historic patterns of bond issuance. If any issuer of tax exempt bonds to which allocations of the state ceiling have been made, finds that it is reasonably likely that a portion of the state ceiling allocated to it would not be consumed, it shall promptly so notify the governor, and the governor may by executive order, following no less than thirty days notice to issuers that have requested additional allocations, provide for the reallocation of the excess to one or more issuers.

This section shall expire July 1, 1987.

NEW SECTION. Sec. 3. No later than December 1, 1986, the department of community development shall submit to the governor and legislature an interim study regarding:

- (1) Status of federal tax law relating to the allocations of the state ceiling;
 - (2) Usage of allocations under previous and existing state ceilings;
 - (3) Projections of future demand for allocations of the state ceiling;
- and
- (4) Recommendations regarding allocations of the state ceiling among issuers and types of bonds.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 14, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 248

[Substitute Senate Bill No. 4933]

LOW-INCOME HOUSING—CITIES, TOWNS, AND COUNTIES MAY PROVIDE LOANS OR GRANTS

AN ACT Relating to low-income housing; adding a new section to chapter 35.21 RCW; and adding a new section to chapter 36.32 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.21 RCW to read as follows:

A city or town may assist in the development or preservation of publicly or privately owned housing for persons of low income by providing loans or grants of general municipal funds to the owners or developers of the housing. The loans or grants shall be authorized by the legislative authority of the city or town. They may be made to finance all or a portion of the cost of construction, reconstruction, acquisition, or rehabilitation of housing that will be occupied by a person or family of low income. As used in this section, "low income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the city or town is located. Housing constructed with loans or grants made under this section shall not be considered public works or improvements subject to competitive bidding or a purchase of services subject to the prohibition against advance payment for services: PROVIDED, That whenever feasible the borrower or grantee shall make every reasonable and practicable effort to utilize a competitive public bidding process.

NEW SECTION. Sec. 2. A new section is added to chapter 36.32 RCW to read as follows:

A county may assist in the development or preservation of publicly or privately owned housing for persons of low income by providing loans or grants of general county funds to the owners or developers of the housing. The loans or grants shall be authorized by the legislative authority of a county. They may be made to finance all or a portion of the cost of construction, reconstruction, acquisition, or rehabilitation of housing that will be occupied by a person or family of low income. As used in this section,

"low income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the county is located. Housing constructed with loans or grants made under this section shall not be considered public works or improvements subject to competitive bidding or a purchase of services subject to the prohibition against advance payment for services: PROVIDED, That whenever feasible the borrower or grantee shall make every reasonable and practicable effort to utilize a competitive public bidding process.

Passed the Senate February 13, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 249

[Engrossed Senate Bill No. 4968]

UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

AN ACT Relating to administrative funding of the unemployment insurance program; creating new sections; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The provisions of RCW 50.16.070 to the contrary notwithstanding, one million five hundred thousand dollars shall be transferred from the federal interest payment fund to the unemployment compensation administration fund.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 31, 1986.

Passed the Senate March 10, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 250

[Substitute House Bill No. 803]

CRIMINAL MISTREATMENT OF CHILDREN OR DEPENDENT PERSONS

AN ACT Relating to criminal mistreatment; adding a new chapter to Title 9A RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. As used in this chapter:

(1) "Basic necessities of life" means food, shelter, clothing, and health care.

(2)(a) "Bodily injury" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.

(3) "Child" means a person under eighteen years of age.

(4) "Dependent person" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life.

(5) "Parent" has its ordinary meaning and also includes a guardian and the authorized agent of a parent or guardian.

NEW SECTION. Sec. 2. (1) A parent of a child or the person entrusted with the physical custody of a child or dependent person is guilty of criminal mistreatment in the first degree if he or she recklessly causes great bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the first degree is a class B felony.

NEW SECTION. Sec. 3. (1) A parent of a child or the person entrusted with the physical custody of a child or dependent person is guilty of criminal mistreatment in the second degree if he or she recklessly either (a) creates an imminent and substantial risk of death or great bodily harm, or (b) causes substantial bodily harm by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the second degree is a class C felony.

NEW SECTION. Sec. 4. Sections 2 and 3 of this act do not apply to a decision to withdraw life support systems made in accordance with law by a health care professional and family members or others with a legal duty to care for the patient.

NEW SECTION. Sec. 5. In any prosecution for criminal mistreatment, it shall be a defense that the withholding of the basic necessities of life is due to financial inability only if the person charged has made a reasonable effort to obtain adequate assistance.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act shall constitute a new chapter in Title 9A RCW.

Passed the House February 16, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 251

[House Bill No. 1374]

TAXABLE IMPROVEMENTS ON LEASED PUBLIC PROPERTY—TAXED AT
FULL TRUE AND FAIR VALUE

AN ACT Relating to nonlessee interests in improvements on leased public property; and amending RCW 82.29A.160.

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

Sec. 1. Section 18, chapter 61, Laws of 1975-'76 2nd ex. sess. and RCW 82.29A.160 are each amended to read as follows:

Notwithstanding any other provision of this chapter, RCW 84.36.451 and 84.40.175, improvements owned or being acquired by contract purchase or otherwise by any lessee or sublessee which are not defined as contract rent shall be taxable to such lessee or sublessee under Title 84 RCW at their full true and fair value without any deduction for interests held by the lessor or others.

Passed the House February 13, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 252

[Substitute House Bill No. 1218]

STREET CONSTRUCTION OR IMPROVEMENT PROJECTS—COUNTY, CITY,
OR TOWN MAY PARTICIPATE AND BE REIMBURSED

AN ACT Relating to transportation; and adding a new section to chapter 35.72 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.72 RCW to read as follows:

As an alternative to financing projects under this chapter solely by owners of real estate, a county, city, or town may join in the financing of improvement projects and may be reimbursed in the same manner as the owners of real estate who participate in the projects, if the county, city, or town has specified the conditions of its participation in an ordinance. A county, city, or town may be reimbursed only for the costs of improvements that benefit that portion of the public who will use the developments within the assessment reimbursement area established pursuant to RCW

35.72.040(1). No county, city, or town costs for improvements that benefit the general public may be reimbursed.

Passed the House February 13, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 253

[House Bill No. 1386]

ANNEXATION OF CITY OR TOWN BY A CITY OR TOWN

AN ACT Relating to the annexation of all or part of a city or town by another city or town; and amending RCW 35.10.217.

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

Sec. 1. Section 4, chapter 89, Laws of 1969 ex. sess. as amended by section 15, chapter 281, Laws of 1985 and RCW 35.10.217 are each amended to read as follows:

The following methods are available for the annexation of all or a part of a city or town to another city or town:

(1) A petition for an election to vote upon the annexation (~~(of all or a part of a city to another city signed by qualified voters of the city proposed to be annexed equal in number to at least one-fifth of the votes cast at the last municipal general election held therein may be filed with)~~), which proposed annexation is approved by the legislative body of the city ((to be annexed. Such legislative body, in turn, shall, by resolution, advise)) or town from which the territory will be taken, may be submitted to the legislative body of the city or town to which annexation is proposed ((of the receipt of such petition and request the latter legislative body to indicate by resolution whether it will accept the proposed annexation, and if so, on what terms. If such resolution of the annexing city states that its legislative body is favorably disposed toward such annexation, the legislative body of the city to be annexed shall submit to the voters in such territory proposed to be annexed, the question of whether such territory shall be annexed and such other propositions as are deemed appropriate)). An annexation under this subsection shall otherwise conform with the requirements for and procedures of a petition and election method of annexing unincorporated territory under chapter 35.13 RCW, except for the requirement for the approval of the annexation by the city or town from which the territory would be taken.

(2) The legislative body of a city or town may on its own initiative by resolution indicate its desire to be annexed to a city or town either in whole or in part, or the legislative body of a city or town proposing to annex all or

part of another city or town may initiate the annexation by adopting a resolution indicating that desire. In case such resolution is passed, such resolution shall be transmitted to the other affected city ((to which it desires to be annexed, and the legislative body of such city shall by resolution indicate whether it will accept the proposed annexation, and if so, on what terms)) or town. The annexation is effective if the other city or town adopts a resolution concurring in the annexation, unless the owners of property in the area proposed to be annexed, equal in value to sixty percent or more of the assessed valuation of the property in the area, protest the proposed annexation in writing to the legislative body of the city or town proposing to annex the area, within thirty days of the adoption of the second resolution accepting the annexation. Notices of the public hearing at which the second resolution is adopted shall be mailed to the owners of the property within the area proposed to be annexed in the same manner that notices of a hearing on a proposed local improvement district are required to be mailed by a city or town as provided in chapter 35.43 RCW. An annexation under this subsection shall be potentially subject to review by a boundary review board or other annexation review board after the adoption of the initial resolution, and the second resolution may not be adopted until the proposed annexation has been approved by the board.

(3) ~~((In the event there are no qualified electors residing within a part of a city which said city wishes to have annexed to another contiguous city, then the issue of annexation will be decided by the legislative body of the city from which the territory is to be withdrawn. This decision, which shall be by majority vote of said legislative body, shall be considered as if it was an election by qualified voters of said territory and handled accordingly under the other applicable sections of this chapter.~~

If the legislative body of the city to which annexation is proposed indicates a willingness to accept the annexation, then the question of whether such territory shall be annexed to such city and become a part thereof and such other propositions as are deemed appropriate shall be submitted to the electors in the territory to be annexed by the legislative body of the city or part thereof to be annexed at an election which such legislative body shall cause to be called for that purpose)) The owners of property located in a city or town may petition for annexation to another city or town. An annexation under this subsection shall conform with the requirements for and procedures of a direct petition method of annexing unincorporated territory, except that the legislative body of the city or town from which the territory would be taken must approve the annexation before it may proceed.

(4) All annexations under this section are subject to potential review by the local boundary review board or annexation review board.

Passed the House February 6, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 254

[Substitute House Bill No. 1388]

FIRE DEPARTMENTS—CONSOLIDATION AND ANNEXATION OF CITIES—
FIRE DEPARTMENT EMPLOYEES—TRANSFER

AN ACT Relating to fire protection agencies in consolidation and annexation actions; adding new sections to chapter 35.10 RCW; adding new sections to chapter 35.13 RCW; adding new sections to chapter 52.04 RCW; adding new sections to chapter 52.06 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.10 RCW to read as follows:

Upon the consolidation of two or more cities or code cities, any employee of the fire department of the former city or cities who (1) was at the time of consolidation employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the fire department of the consolidated city or code city, as the case may be, (2) will, as a direct consequence of consolidation, be separated from the employ of the former city, code city or town, and (3) can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer employment to the fire department of the consolidated city, as provided in this section and sections 2 and 3 of this act.

For purposes of this section and sections 2 and 3 of this act, employee means an individual whose employment has been terminated because of a consolidation of two or more cities, code cities or towns.

NEW SECTION. Sec. 2. A new section is added to chapter 35.10 RCW to read as follows:

(1) An eligible employee may transfer into the civil service system of the consolidated city or code city by filing a written request with the civil service commission of the consolidated city. Upon receipt of such request by the civil service commission the transfer of employment shall be made. The employee so transferring will (a) be on probation for the same period as are new employees in the position filled, (b) be eligible for promotion after completion of the probationary period as completed, (c) receive a salary at least equal to that of other new employees in the position filled, and (d) in all other matters, such as retirement, sick leave, and vacation, have, within

the city or code city civil service system, all the rights, benefits, and privileges to which he or she would have been entitled as a member of the consolidated city fire department from the beginning of his or her employment with the former city or code city fire department: PROVIDED, That for purposes of layoffs by the consolidated city or code city, only the time of service accrued with the consolidated city or code city shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the consolidating fire agencies and consolidated agencies and the consolidating and consolidated fire agencies. A record of the employee's service with the former city or code city fire department shall be transmitted to the applicable civil service commission and shall be credited to such employee as a part of the period of employment in the consolidated city fire department. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the consolidated city or code city fire department as the department determines are needed to provide services. These needed employees shall be taken in order of greatest seniority from any of the seniority lists of the consolidating city or code city and the remaining employees who transfer as provided in this section and sections 1 and 3 of this act shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the fire department when appropriate positions become available: PROVIDED, That employees who are not immediately hired by the city, code city or town shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the consolidating fire agencies and consolidated fire agency and the consolidating and consolidated fire agencies.

(3) The consolidated city or code city shall retain the right to select the fire chief and assistant fire chiefs regardless of seniority.

NEW SECTION. Sec. 3. A new section is added to chapter 35.10 RCW to read as follows:

If, as a result of consolidation of two or more cities, or code cities, any employee is laid off who is eligible to transfer to the city fire department pursuant to this section and sections 1 and 2 of this act, the city fire department shall notify the employee of the right to so transfer and the employee shall have ninety days to transfer employment to the consolidating city, or code city fire department.

NEW SECTION. Sec. 4. A new section is added to chapter 35.10 RCW to read as follows:

Upon the annexation of two or more cities or code cities, any employee of the fire department of the former city or cities who (1) was at the time of

annexation employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the fire department of the annexed city or code city, as the case may be, (2) will, as a direct consequence of annexation, be separated from the employ of the former city, code city or town, and (3) can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer employment to the fire department of the annexing city, as provided in this section and sections 5 and 6 of this act.

For purposes of this section and sections 5 and 6 of this act, employee means an individual whose employment has been terminated because of annexation by a city, code city or town.

NEW SECTION. Sec. 5. A new section is added to chapter 35.10 RCW to read as follows:

(1) An eligible employee may transfer into the civil service system of the annexing city, code city or town by filing a written request with the city, code city or town civil service commission. Upon receipt of such request by the civil service commission the transfer of employment shall be made. The employee so transferring will (a) be on probation for the same period as are new employees in the position filled, (b) be eligible for promotion after completion of the probationary period as completed, (c) receive a salary at least equal to that of other new employees in the position filled, and (d) in all other matters, such as retirement, sick leave, and vacation, have, within the city, code city or town civil service system, all the rights, benefits, and privileges to which he or she would have been entitled as a member of the annexed city, code city or town fire department from the beginning of his or her employment with the former city or code city fire department: **PROVIDED**, That for purposes of layoffs by the annexing city or code city, only the time of service accrued with the annexing city or code city shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies. A record of the employee's service with the former city or code city fire department shall be transmitted to the applicable civil service commission which shall be credited to such employee as a part of the period of employment in the annexed city, code city or town fire department. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the annexing city, code city or town fire department as the department determines are needed to provide services. These needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in this section and sections 4 and 6 of this act shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the city,

code city or town fire department when appropriate positions become available: PROVIDED, That employees who are not immediately hired by the city, code city or town shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies.

NEW SECTION. Sec. 6. A new section is added to chapter 35.10 RCW to read as follows:

If, as a result of annexation of two or more cities, or code cities any employee is laid off who is eligible to transfer to the city, code city or town fire department under this section and sections 4 and 5 of this act the fire department shall notify the employee of the right to transfer and the employee shall have ninety days to transfer employment to the annexing city or code city fire department.

NEW SECTION. Sec. 7. A new section is added to chapter 35.13 RCW to read as follows:

If any portion of a fire protection district is annexed to or incorporated into a city, code city or town, any employee of the fire protection district who (1) was at the time of such annexation or incorporation employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the city, code city or town fire department (2) will, as a direct consequence of annexation or incorporation, be separated from the employ of the fire protection district, and (3) can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer employment to the civil service system of the city, code city or town fire department as provided for in this section and sections 8 and 9 of this act.

For purposes of this section and sections 8 and 9 of this act, employee means an individual whose employment with a fire protection district has been terminated because the fire protection district was annexed by a city, code city or town for purposes of fire protection.

NEW SECTION. Sec. 8. A new section is added to chapter 35.13 RCW to read as follows:

(1) An eligible employee may transfer into the civil service system of the city, code city or town fire department by filing a written request with the city, code city or town civil service commission and by giving written notice thereof to the board of commissioners of the fire protection district. Upon receipt of such request by the civil service commission the transfer of employment shall be made. The employee so transferring will (a) be on probation for the same period as are new employees of the city, code city or town fire department in the position filled, (b) be eligible for promotion after completion of the probationary period as completed, (c) receive a salary

at least equal to that of other new employees of the city, code city or town fire department in the position filled, and (d) in all other matters, such as retirement, sick leave, and vacation, have, within the city, code city or town civil service system, all the rights, benefits, and privileges to which he or she would have been entitled as a member of the city, code city or town fire department from the beginning of employment with the fire protection district: **PROVIDED**, That for purposes of layoffs by the annexing fire agency, only the time of service accrued with the annexing agency shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies. The board of commissioners of the fire protection district shall, upon receipt of such notice, transmit to any applicable civil service commission a record of the employee's service with the fire protection district which shall be credited to such employee as a part of the period of employment in the city, code city or town fire department. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the city, code city or town fire department as the department determines are needed to provide services. These needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in this section and sections 7 and 9 of this act shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the city, code city or town fire department when appropriate positions become available: **PROVIDED**, That employees who are not immediately hired by the city, code city or town shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies.

NEW SECTION. Sec. 9. A new section is added to chapter 35.13 RCW to read as follows:

If any portion of a fire protection district is annexed to or incorporated into a city, code city or town, and as a result any employee is laid off who is eligible to transfer to the city, code city or town fire department under this section and sections 7 and 8 of this act the fire protection district shall notify the employee of the right to transfer and the employee shall have ninety days to transfer employment to the city, code city or town fire department.

NEW SECTION. Sec. 10. A new section is added to chapter 52.04 RCW to read as follows:

When any city, code city or town is annexed to a fire protection district under RCW 52.04.061 and 52.04.071, any employee of the fire department

of such city, code city or town who (1) was at the time of annexation employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the fire protection district (2) will, as a direct consequence of annexation, be separated from the employ of the city, code city or town, and (3) can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer his employment to the fire protection district as provided in this section and sections 11 and 12 of this act.

For purposes of this section and sections 11 and 12 of this act, employee means an individual whose employment with a city, code city or town has been terminated because the city, code city or town was annexed by a fire protection district for purposes of fire protection.

NEW SECTION. Sec. 11. A new section is added to chapter 52.04 RCW to read as follows:

(1) An eligible employee may transfer into the fire protection district civil service system, if any, or if none, then may request transfer of employment under this section by filing a written request with the board of fire commissioners of the fire protection district and by giving written notice to the legislative authority of the city, code city or town. Upon receipt of such request by the board of fire commissioners the transfer of employment shall be made. The employee so transferring will (a) be on probation for the same period as are new employees of the fire protection district in the position filled, (b) be eligible for promotion after completion of the probationary period as completed, (c) receive a salary at least equal to that of other new employees of the fire protection district in the position filled, and (d) in all other matters, such as retirement, vacation, and sick leave, have all the rights, benefits, and privileges to which he or she would have been entitled as an employee of the fire protection district from the beginning of employment with the city, code city or town fire department: PROVIDED, That for purposes of layoffs by the annexing fire agency, only the time of service accrued with the annexing agency shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies. The city, code city or town shall, upon receipt of such notice, transmit to the board of fire commissioners a record of the employee's service with the city, code city or town which shall be credited to such employee as a part of the period of employment in the fire protection district. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the fire protection district as the district determines are needed to provide services. These needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in this section and

sections 10 and 12 of this act shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the fire protection district when appropriate positions become available: **PROVIDED**, That employees who are not immediately hired by the fire protection district shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies.

NEW SECTION. Sec. 12. A new section is added to chapter 52.04 RCW to read as follows:

When a city, code city or town is annexed to a fire protection district and as a result any employee is laid off who is eligible to transfer to the fire protection district pursuant to this section and sections 10 and 11 of this act, the city, code city or town shall notify the employee of the right to transfer and the employee shall have ninety days to transfer employment to the fire protection district.

NEW SECTION. Sec. 13. A new section is added to chapter 52.06 RCW to read as follows:

When any portion of a fire protection district merges with another fire protection district, any employee of the merging district who (1) was at the time of merger employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the merger district (2) will, as a direct consequence of the merger, be separated from the employ of the merging district, and (3) can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer employment to the merger district as provided in this section and sections 14 and 15 of this act.

For purposes of this section and sections 14 and 15 of this act, employee means an individual whose employment with a fire protection district has been terminated because the fire protection district merged with another fire protection district for purposes of fire protection.

NEW SECTION. Sec. 14. A new section is added to chapter 52.06 RCW to read as follows:

(1) An eligible employee may transfer into the merger district by filing a written request with the board of fire commissioners of the merger district and by giving written notice to the board of fire commissioners of the merging district. Upon receipt of such request by the board of the merger district the transfer of employment shall be made. The employee so transferring will (a) be on probation for the same period as are new employees of the merger district in the position filled, (b) be eligible for promotion after completion of the probationary period as completed, (c) receive a salary at

least equal to that of other new employees of the merger district in the position filled, and (d) in all other matters, such as retirement, vacation, and sick leave, have, all the rights, benefits, and privileges to which he or she would have been entitled to as an employee of the merger district from the beginning of employment with the merging district: PROVIDED, That for purposes of layoffs by the merger fire agency, only the time of service accrued with the merger agency shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the merging and merger fire agencies and the merging and merger fire agencies. The board of the merging district shall, upon receipt of such notice, transmit to the board of the merger district a record of the employee's service with the merging district which shall be credited to such employee as a part of the period of employment in the merger district. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the merger district as the merger district determines are needed to provide services. These needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in this section and sections 13 and 15 of this act shall head the list for employment in order of their seniority, to the end that they shall be the first to be reemployed in the merger district when appropriate positions become available: PROVIDED, That employees who are not immediately hired by the fire protection district shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the merging and merged fire agencies and the merging and merged fire agencies.

NEW SECTION. Sec. 15. A new section is added to chapter 52.06 RCW to read as follows:

If, as a result of merging of districts any employee is laid off who is eligible to transfer to the merger district under this section and sections 13 and 14 of this act, the merging district shall notify the employee of the right to transfer and the employee shall have ninety days to transfer employment to the merger district.

NEW SECTION. Sec. 16. Sections 1 through 3 of this act shall take effect July 1, 1987. The appropriate committees of the senate and house of representatives shall conduct a study of the transfer rights of employees during the consolidation of cities and code cities and make recommendations to the legislature at the start of the 1987 legislative session.

NEW SECTION. Sec. 17. Sections 4 through 15 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.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 255

[Substitute House Bill No. 1391]

HEARING AIDS—SALES AND USE TAX EXEMPTION

AN ACT Relating to sales and use tax exemptions of hearing aids; amending RCW 82.08.0283 and 82.12.0277; and providing an effective date.

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

Sec. 1. Section 48, chapter 37, Laws of 1980 as amended by section 1, chapter 86, Laws of 1980 and RCW 82.08.0283 are each amended to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales of insulin; prosthetic and orthotic devices prescribed for an individual by a person licensed under chapters 18.25, 18.57, or 18.71 RCW or dispensed or fitted by a person licensed under chapter 18.35 RCW; ostomic items; and medically prescribed oxygen.

Sec. 2. Section 75, chapter 37, Laws of 1980 as amended by section 2, chapter 86, Laws of 1980 and RCW 82.12.0277 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of insulin; prosthetic and orthotic devices prescribed for an individual by a person licensed under chapters 18.25, 18.57, or 18.71 RCW or dispensed or fitted by a person licensed under chapter 18.35 RCW; ostomic items; and medically prescribed oxygen.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1986.

Passed the House February 13, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 256

[Substitute House Bill No. 1564]

PROPOSED LOCAL IMPROVEMENT DISTRICTS—PROTESTS

AN ACT Relating to protests of proposed local improvement districts; and amending RCW 56.20.020, 56.20.030, and 57.16.060.

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

Sec. 1. Section 27, chapter 210, Laws of 1941 as last amended by section 10, chapter 300, Laws of 1977 ex. sess. and RCW 56.20.020 are each amended to read as follows:

Utility local improvement districts to carry out all or any portion of the comprehensive plan, or additions and betterments thereof, adopted for the sewer district may be initiated either by resolution of the board of sewer commissioners or by petition signed by the owners according to the records of the office of the county auditor of at least fifty-one percent of the area of the land within the limits of the utility local improvement district to be created.

In case the board of sewer commissioners (~~shall~~) desires to initiate the formation of a utility local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed utility local improvement district, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time, and place for a public hearing on the formation of the proposed local district, which date shall, unless there is an emergency, be no less than thirty days and no more than ninety days from the day the resolution of intention was adopted.

In case any such utility local improvement district (~~shall be~~) is initiated by petition, such petition shall set forth the nature and territorial extent of such proposed improvement and the fact that the signers thereof are the owners according to the records of the county auditor of at least fifty-one percent of the area of land within the limits of the utility local improvement district to be created. Upon the filing of such petition with the secretary of the board of sewer commissioners, the board shall determine whether the (~~same shall be~~) petition is sufficient, and the board's determination thereof shall be conclusive upon all persons. No person (~~shall~~) may withdraw his name from (~~said~~) the petition after the filing thereof with the secretary of the board of sewer commissioners. If the board (~~shall~~) finds the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and territorial extent of (~~said~~) the improvement, designating

the number of the proposed local district, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time, and place for a public hearing on the formation of the proposed local district.

Notice of the adoption of the resolution of intention, whether the resolution was adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of sewer commissioners. Notice of the adoption of the resolution of intention shall also be given each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed improvement district by mailing ~~((said))~~ the notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon. Whenever such notices are mailed, the sewer commissioners shall maintain a list of such reputed property owners, which list shall be kept on file at a location within the sewer district and shall be made available for public perusal. The notices shall refer to the resolution of intention and designate the proposed improvement district by number. ~~((Said))~~ The notices shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the date, time, and place of the hearing before the board of sewer commissioners. In the case of improvements initiated by resolution, ~~((said))~~ the notice shall also: (1) State that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board of sewer commissioners ~~((before the time fixed for said))~~ no later than ten days after the public hearing; (2) state that if owners of at least forty percent of the area of land within the proposed district file written protests with the secretary of the board, the power of the sewer commissioners to proceed with the creation of the proposed district shall be divested; (3) provide the name and address of the secretary of the board; and (4) state the hours and location within the sewer district where the names of the property owners within the proposed district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract, parcel of land, or other property.

Sec. 2. Section 28, chapter 210, Laws of 1941 as last amended by section 6, chapter 58, Laws of 1974 ex. sess. and RCW 56.20.030 are each amended to read as follows:

Whether the improvement is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the

notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in plans for the proposed improvement as shall be deemed necessary(~~(-PROVIDED, That)~~). The board may not change the boundaries of the district to include property not previously included ((therein)) in it without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time ((herein)) provided in this chapter for the original notice.

After ~~((said))~~ the hearing the commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution(~~(-PROVIDED, That)~~). The jurisdiction of the commissioners to proceed with any improvement initiated by resolution shall be divested: (a) by protests filed with the secretary of the board ((prior to said)) before the public hearing signed by the owners, according to the records of the county auditor, of at least forty percent of the area of land within the proposed local district or (b) by the commissioners not adopting a resolution ordering the improvement at a public hearing held not more than ninety days from the day the resolution of intention was adopted, unless the commissioners file with the county auditor a copy of the notice required by RCW 56.20.020, and in no event at a hearing held more than two years from the day the resolution of intention was adopted.

If the commissioners find that the district should be formed, they shall by resolution form the district and order the improvement((;)). After execution of the resolution forming the district, the secretary of the board of commissioners shall publish, in a legal publication that serves the area subject to the district, a notice setting forth that a resolution has been passed forming the district and that a lawsuit challenging the jurisdiction or authority of the sewer district to proceed with the improvement and creating the district must be filed, and notice to the sewer district served, within thirty days of the publication of the notice. The notice shall set forth the nature of the appeal. Property owners bringing the appeal shall follow the procedures as set forth under appeal under RCW 56.20.080. Whenever a resolution forming a district has been adopted, the formation is conclusive in all things upon all parties, and cannot be contested or questioned in any manner in any proceeding whatsoever by any person not commencing a lawsuit in the manner and within the time provided in this section, except for lawsuits made under RCW 56.20.080.

Following an appeal, if it is unsuccessful or if no appeal is made under RCW 56.20.080, the commissioners may proceed with the improvement and provide the general funds of the sewer district to be applied thereto, adopt detailed plans of the utility local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages

caused thereby, and commence in the name of the sewer district such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain awards as may be necessary to entitle the district to proceed with the work. The board of sewer commissioners shall proceed with the work and file with the county treasurer of each county in which the real property is to be assessed its roll levying special assessments in the amount to be paid by special assessment against the property situated within the local improvement district in proportion to the special benefits to be derived by the property therein from the improvement.

Sec. 3. Section 11, chapter 18, Laws of 1959 as last amended by section 16, chapter 17, Laws of 1982 1st ex. sess. and RCW 57.16.060 are each amended to read as follows:

Local improvement districts or utility local improvement districts to carry out the whole or any portion of the general comprehensive plan of improvements or plan providing for additions and betterments to the original general comprehensive plan previously adopted may be initiated either by resolution of the board of water commissioners or by petition signed by the owners according to the records of the office of the applicable county auditor of at least fifty-one percent of the area of the land within the limits of the local improvement district to be created.

In case the board of water commissioners (~~shall~~) desires to initiate the formation of a local improvement district or a utility local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed local improvement district or utility local improvement district, and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time, and place for a public hearing on the formation of the proposed local district.

In case any such local improvement district or utility local improvement district (~~shall be~~) is initiated by petition, such petition shall set forth the nature and territorial extent of the proposed improvement requested to be ordered and the fact that the signers thereof are the owners according to the records of the applicable county auditor of at least fifty-one percent of the area of land within the limits of the local improvement district or utility local improvement district to be created. Upon the filing of such petition the board shall determine whether the (~~same shall be~~) petition is sufficient, and the board's determination thereof shall be conclusive upon all persons. No person (~~shall~~) may withdraw his name from the petition after (~~the same~~) it has been filed with the board of water commissioners. If the board (~~shall~~) finds the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and territorial extent of (~~said~~) the improvement,

designating the number of the proposed local district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time, and place for a public hearing on the formation of the proposed local district.

Notice of the adoption of the resolution of intention, whether the resolution was adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of water commissioners. Notice of the adoption of the resolution of intention shall also be given each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed improvement district by mailing ~~((said))~~ the notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer of the county in which the real property is located at the address shown thereon. Whenever such notices are mailed, the water commissioners shall maintain a list of such reputed property owners, which list shall be kept on file at a location within the water district and shall be made available for public perusal. The notices shall refer to the resolution of intention and designate the proposed improvement district by number. ~~((said))~~ The notices shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the date, time, and place of the hearing before the board of water commissioners. In the case of improvements initiated by resolution, ~~((said))~~ the notice shall also: (1) State that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board of water commissioners ~~((before the time fixed for said))~~ no later than ten days after the public hearing; (2) state that if owners of at least forty percent of the area of land within the proposed district file written protests with the secretary of the board, the power of the water commissioners to proceed with the creation of the proposed district shall be divested; (3) provide the name and address of the secretary of the board; and (4) state the hours and location within the water district where the names of the property owners within the proposed district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract, parcel of land, or other property.

Whether the improvement is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in

the plans for the proposed improvement as shall be deemed necessary(~~(: PROVIDED, That)~~). The board may not change the boundaries of the district to include property not previously included (~~(therein)~~) in it without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time (~~(herein)~~) provided in this chapter for the original notice.

After (~~(said)~~) the hearing the commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution(~~(: PROVIDED, That)~~). The jurisdiction of the commissioners to proceed with any improvement initiated by resolution shall be divested by protests filed with the secretary of the board (~~(prior to said)~~) before the public hearing signed by the owners, according to the records of the applicable county auditor, of at least forty percent of the area of land within the proposed local district.

If the commissioners find that the district should be formed, they shall by resolution form the district and order the improvement(~~(;)~~). After execution of the resolution forming the district, the secretary of the board of commissioners shall publish, in a legal publication that serves the area subject to the district, a notice setting forth that a resolution has been passed forming the district and that a lawsuit challenging the jurisdiction or authority of the water district to proceed with the improvement and creating the district must be filed, and notice to the water district served, within thirty days of the publication of the notice. The notice shall set forth the nature of the appeal. Property owners bringing the appeal shall follow the procedures as set forth under appeal under RCW 57.16.090. Whenever a resolution forming a district has been adopted, the formation is conclusive in all things upon all parties, and cannot be contested or questioned in any manner in any proceeding whatsoever by any person not commencing a lawsuit in the manner and within the time provided in this section, except for lawsuits made under RCW 57.16.090.

Following an appeal, if it is unsuccessful or if no appeal is made under RCW 57.16.090, the commissioners may proceed with the improvement and provide the general funds of the water district to be applied thereto, adopt detailed plans of the local improvement district or utility local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the water district such eminent domain proceedings as may be necessary to entitle the district to proceed with the work. The board shall thereupon proceed with the work and file with the county treasurer of the county in which the real property is located its roll levying special assessments in the amount to be paid by special assessment against the property situated within the

improvement district in proportion to the special benefits to be derived by the property therein from the improvement.

Passed the House February 11, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 257

[Substitute House Bill No. 1399]

SENTENCING OF ADULT FELONS

AN ACT Relating to the sentencing of adult felons; amending RCW 9A.56.010, 9A.04.110, 10.99.020, 43.10.232, 9.94A.030, 9.94A.040, 9.94A.070, 9.94A.120, 9.94A.190, 9.94A.310, 9.94A.320, 9.94A.330, 9.94A.360, 9.94A.370, 9.94A.390, 9.94A.400, 9.94A.410, 9.94A.440, 9A.44.070, 9A.56.080, 13.50.050, and 9.94A.110; amending section 2, chapter 234, Laws of 1984 (uncodified); reenacting and amending RCW 9A.04.080; adding new sections to chapter 9A.36 RCW; creating new sections; repealing RCW 9A.36.010, 9A.36.020, 9A.36.030, 9A.36.040, 28A.87.140, 9.94A.300, and 9.94A.122; prescribing penalties; and providing effective dates.

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

NEW SECTION. Sec. 1. The sentencing guidelines commission shall study robbery of controlled substances and consider whether this type of robbery should be defined as a separate felony or whether additional sentencing enhancements are needed. The commission shall study the sentences for this type of robbery that have been imposed under the sentencing reform act. The commission shall deliver its recommendations to the legislature by January 1, 1987.

Sec. 2. Section 9A.56.010, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 382, Laws of 1985 and RCW 9A.56.010 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) "Credit card" means any instrument or device, whether incomplete, revoked, or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the payment of a check

drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the issuer;

(4) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(5) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(6) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(7) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another; ((σ))

(b) Having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where such use is unauthorized by the partnership agreement;

(8) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(9) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(10) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(11) "Stolen" means obtained by theft, robbery, or extortion;

(12) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

(13) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

(14) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle.

Sec. 3. Section 9A.04.110, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.04.110 are each amended to read as follows:

In this title unless a different meaning plainly is required:

(1) "Acted" includes, where relevant, omitted to act;

(2) "Actor" includes, where relevant, a person failing to act;

(3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;

(4) (a) "Bodily injury₁" ((or)) "physical injury₁" or "bodily harm" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ;

(5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(6) "Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or ((~~serious bodily injury~~)) substantial bodily harm;

(7) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;

(8) "Government" includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;

(9) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;

(10) "Indicted" and "indictment" include "informed against" and "information", and "informed against" and "information" include "indicted" and "indictment";

(11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;

(12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty;

(13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;

(14) "Omission" means a failure to act;

(15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;

(16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;

(17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

(18) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch;

(19) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;

(20) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(21) "Property" means anything of value, whether tangible or intangible, real or personal;

(22) "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;

(23) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;

(24) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;

(25) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

(i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships((-));

(26) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail;

(27) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

NEW SECTION. Sec. 4. (1) A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm:

(a) Assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death; or

(b) Administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(c) Assaults another and inflicts great bodily harm.

(2) Assault in the first degree is a class A felony.

NEW SECTION. Sec. 5. (1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby inflicts substantial bodily harm; or

(b) Assaults another with a deadly weapon; or

(c) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(d) With intent to commit a felony, assaults another.

(2) Assault in the second degree is a class B felony.

NEW SECTION. Sec. 6. (1) A person is guilty of assault in the third degree if he or she, under circumstances not amounting to assault in the first or second degree:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person, assaults another; or

(b) Assaults a person employed as a transit operator or driver by a public or private transit company while that person is operating or is in control of a vehicle owned or operated by the transit company; or

(c) With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(d) Assaults a fire fighter or other employee of a fire department or fire protection district who was performing his or her official duties at the time of the assault.

(2) Assault in the third degree is a class C felony.

NEW SECTION. Sec. 7. (1) A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, he or she assaults another.

(2) Assault in the fourth degree is a gross misdemeanor.

Sec. 8. Section 2, chapter 105, Laws of 1979 ex. sess. as amended by section 20, chapter 263, Laws of 1984 and RCW 10.99.020 are each amended to read as follows:

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

(1) "Family or household members" means spouses, former spouses, adult persons related by blood or marriage, persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(2) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

(a) Assault in the first degree (~~((RCW 9A.36.010))~~) (section 4 of this 1986 act);

(b) Assault in the second degree (~~((RCW 9A.36.020))~~) (section 5 of this 1986 act);

(c) ~~((Simple))~~ Assault (~~((RCW 9A.36.040))~~) in the third degree (section 6 of this 1986 act);

- (d) Assault in the fourth degree (section 7 of this 1986 act);
 (e) Reckless endangerment (RCW 9A.36.050);
 ((e)) (f) Coercion (RCW 9A.36.070);
 ((f)) (g) Burglary in the first degree (RCW 9A.52.020);
 ((g)) (h) Burglary in the second degree (RCW 9A.52.030);
 ((h)) (i) Criminal trespass in the first degree (RCW 9A.52.070);
 ((i)) (j) Criminal trespass in the second degree (RCW 9A.52.080);
 ((j)) (k) Malicious mischief in the first degree (RCW 9A.48.070);
 ((k)) (l) Malicious mischief in the second degree (RCW 9A.48.080);
 ((l)) (m) Malicious mischief in the third degree (RCW 9A.48.090);
 ((m)) (n) Kidnapping in the first degree (RCW 9A.40.020);
 ((n)) (o) Kidnapping in the second degree (RCW 9A.40.030);
 ((o)) (p) Unlawful imprisonment (RCW 9A.40.040);
 ((p)) (q) Violation of the provisions of a restraining order restraining the person or excluding the person from a residence (RCW 26.09.300);
 ((q)) (r) Violation of the provisions of a protection order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, or 26.50.130);
 ((r)) (s) Rape in the first degree (RCW ((9-79-170)) 9A.44.040);
 and
 ((s)) (t) Rape in the second degree (RCW ((9-79-180)) 9A.44.050).
 (3) "Victim" means a family or household member who has been subjected to domestic violence.

NEW SECTION. Sec. 9. The following acts or parts of acts are each repealed:

- (1) Section 9A.36.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.36.010;
- (2) Section 9A.36.020, chapter 260, Laws of 1975 1st ex. sess., section 5, chapter 38, Laws of 1975-'76 2nd ex. sess., section 9, chapter 244, Laws of 1979 ex. sess. and RCW 9A.36.020;
- (3) Section 9A.36.030, chapter 260, Laws of 1975 1st ex. sess., section 10, chapter 244, Laws of 1979 ex. sess., section 1, chapter 140, Laws of 1982 and RCW 9A.36.030;
- (4) Section 9A.36.040, chapter 260, Laws of 1975 1st ex. sess., section 18, chapter 263, Laws of 1984, section 8, chapter 303, Laws of 1985 and RCW 9A.36.040; and
- (5) Section 28A.87.140, chapter 223, Laws of 1969 ex. sess., section 61, chapter 199, Laws of 1969 ex. sess., section 318, chapter 258, Laws of 1984 and RCW 28A.87.140.

NEW SECTION. Sec. 10. The enactment of section 9 of this act does not have the effect of terminating or in any way modifying any criminal liability in existence prior to the effective date of this act, nor affecting any proceeding instituted under the sections repealed.

NEW SECTION. Sec. 11. Sections 4 through 7 of this act are each added to chapter 9A.36 RCW.

NEW SECTION. Sec. 12. Sections 3 through 10 of this act shall take effect on July 1, 1987.

Sec. 13. Section 9A.04.080, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 186, Laws of 1985 and by section 19, chapter 455, Laws of 1985 and RCW 9A.04.080 are each reenacted and amended to read as follows:

Prosecutions for the offenses of murder, and arson where death ensues, may be commenced at any period after the commission of the offense; for offenses the punishment of which may be imprisonment in a state correctional institution, committed by any public officer in connection with the duties of his office or constituting a breach of his public duty or a violation of his oath of office, and arson where death does not ensue, within ten years after their commission; for violations of RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b), within seven years after their commission; for violations of RCW 9A.82.060 or 9A.82.080, within six years after their commission; for bigamy, within three years of the time specified in RCW 9A.64.010; for all other offenses the punishment of which may be imprisonment in a state correctional institution, within three years after their commission; two years for gross misdemeanors; and for all other offenses, within one year after their commission: PROVIDED, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one, two, three, six, seven, and ten years respectively: AND FURTHER PROVIDED, That where an indictment has been found, or complaint or an information filed, within the time limited for the commencement of a criminal action, if the indictment, complaint, or information be set aside, the time of limitation shall be extended by the length of time from the time of filing of such indictment, complaint, or information, to the time such indictment, complaint, or information was set aside.

Sec. 14. Section 9A.64.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.64.010 are each amended to read as follows:

(1) A person is guilty of bigamy if he intentionally marries or purports to marry another person when either person has a living spouse.

(2) In any prosecution under this section, it is a defense that at the time of the subsequent marriage or purported marriage:

(a) The actor reasonably believed that the prior spouse was dead; or

(b) A court had entered a judgment purporting to terminate or annul any prior disqualifying marriage and the actor did not know that such judgment was invalid; or

(c) The actor reasonably believed that he was legally eligible to marry.

(3) The limitation imposed by RCW 9A.04.080 on commencing a prosecution for bigamy does not begin to run until the death of the prior or

subsequent spouse of the actor or until a court enters a judgment terminating or annulling the prior or subsequent marriage.

(4) Bigamy is a class C felony.

Sec. 15. Section 2, chapter 234, Laws of 1984 (uncodified) is amended to read as follows:

(1) The joint legislative committee on the criminal justice system shall survey and study crime prevention, the causes of crime, and how the administration of the criminal justice system impacts crime.

(2) The committee shall submit its findings and recommendations thereon to the governor, the legislature, and the judicial branch of state government. A final report shall be prepared and submitted by January 1, ((+1986)) 1987, on which date the committee shall cease to exist.

(3) The committee shall conduct a study for the legislature to determine whether the sentencing reform act has addressed the high rate of minority incarceration in Washington. The committee shall determine whether there are significant statistical differences in the arrest, charging, conviction, and sentencing of minorities. The committee is also directed to determine the extent to which recommended prosecutor charging and plea bargaining guidelines set forth in the sentencing reform act are being followed around the state and whether uniform, mandatory standards should be adopted. The committee shall complete this report for the legislature by January 1, 1987.

Sec. 16. Section 2, chapter 335, Laws of 1981 and RCW 43.10.232 are each amended to read as follows:

(1) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

((+)) (a) The county prosecuting attorney of the jurisdiction in which the offense has occurred;

((+)) (b) The governor of the state of Washington; or

((+)) (c) A majority of the committee charged with the oversight of the organized crime intelligence unit.

(2) Such request or concurrence shall be communicated in writing to the attorney general.

(3) Prior to any prosecution by the attorney general under this section, the attorney general and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution.

Sec. 17. Section 3, chapter 137, Laws of 1981 as last amended by section 5, chapter 346, Laws of 1985 and RCW 9.94A.030 are each 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 service" means compulsory service, without compensation, performed for the benefit of the community by the offender. 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.

(4) "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).

(5) "Confinement" means total or partial confinement as defined in this section.

(6) "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.

(7) "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.

(8) (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 ((or pleas of guilty)) in juvenile court if: (i) The ((guilty plea or)) conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); ((and)) (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies, the defendant ((had not reached his or her twenty-third birthday)) was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(9) "Department" means the department of corrections.

(10) "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.

(11) "Drug offense" means 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).

(12) "Escape" means escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), wilful failure to return from furlough (RCW 72.66.060), or wilful failure to return from work release (RCW 72.65.070).

(13) "Felony traffic offense" means vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), or felony hit-and-run injury-accident (RCW 46.52.020(4)).

(14) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

~~((+2))~~ (15)(a) "First-time offender" means any person who is convicted of a felony not classified as a violent offense or a sex offense under this chapter, 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.

~~((+3))~~ (16) "Nonviolent offense" means an offense which is not a violent offense.

(17) "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.

~~((+4))~~ (18) "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 the state or any other unit of government, for a substantial portion of each day with the balance of the day spent in the community.

~~((+5))~~ (19) "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.

~~((+6))~~ (20) "Serious traffic offense" means 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)).

(21) "Serious violent offense" is a subcategory of violent offense and means murder in the first degree, 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.

(22) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((+7))~~ (23) "Sex offense" means 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.

(24) "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.

~~((+8))~~ (25) "Victim" means any person who has sustained physical or financial injury to person or property as a direct result of the crime charged.

~~((+9))~~ (26) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, ~~(and)~~ vehicular homicide, and vehicular assault;

(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 subsection ~~((+9))~~ (26)(a) of this section; 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 subsection ~~((+9))~~ (26) (a) or (b) of this section.

Sec. 18. Section 4, chapter 137, Laws of 1981 as amended by section 2, chapter 192, Laws of 1982 and RCW 9.94A.040 are each amended to read as follows:

(1) A sentencing guidelines commission is established as an agency of state government.

(2) The commission shall, following a public hearing or hearings:

(a) Devise a series of recommended standard sentence ranges for all felony offenses and a system for determining which range of punishment applies to each offender based on the extent and nature of the offender's criminal history, if any;

(b) Devise recommended prosecuting standards in respect to charging of offenses and plea agreements; and

(c) Devise recommended standards to govern whether sentences are to be served consecutively or concurrently.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) In devising the standard sentence ranges of total and partial confinement under this section, the commission is subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.020.

(5) In carrying out its duties under subsection (2) of this section, the commission shall give consideration to the existing guidelines adopted by the association of superior court judges and the Washington association of prosecuting attorneys and the experience gained through use of those guidelines. The commission shall emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender.

(6) This commission shall conduct a study to determine the capacity of correctional facilities and programs which are or will be available. While the commission need not consider such capacity in arriving at its recommendations, the commission shall project whether the implementation of its recommendations would result in exceeding such capacity. If the commission finds that this result would probably occur, then the commission shall prepare an additional list of standard sentences which shall be consistent with such capacity.

(7) ~~((By January 10, 1983, the commission shall recommend its standard sentence ranges and standards to the legislature by providing the recommendations to the chief clerk of the house of representatives and secretary of the senate. If the commission has prepared an additional list of standard sentence ranges, as provided under subsection (6) of this section, then the commission shall include such list along with its recommendations.~~

~~(8) Every two years,))~~ The commission may recommend to the legislature revisions or modifications to the standard sentence ranges and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity.

~~((9))~~ (8) The commission shall study the existing criminal code and from time to time make recommendations to the legislature for modification.

~~((10))~~ (9) The commission shall exercise its duties under this section in conformity with chapter 34.04 RCW, as now existing or hereafter amended.

Sec. 19. Section 7, chapter 137, Laws of 1981 and RCW 9.94A.070 are each amended to read as follows:

~~((1) At its regular session convening in 1983, the legislature shall enact laws approving or modifying either the standards recommended by the commission, or the additional list of standard sentence ranges consistent with prison capacity in the event an additional list has been submitted pursuant to RCW 9.94A.040(6). The standards so adopted shall take effect on July 1, 1984.~~

(2)) Revisions or modifications of standard sentence ranges or other standards, together with any additional list of standard sentence ranges, shall be submitted to the legislature at least every two years ~~((and shall become effective as provided under subsection (1) of this section on July first of the year in which they are submitted))~~.

Sec. 20. Section 12, chapter 137, Laws of 1981 as last amended by section 6, chapter 209, Laws of 1984 and RCW 9.94A.120 are each 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) ~~((and)),~~ (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 (~~(; other than a person convicted of a violation of chapter 9A.44 RCW or RCW 9A.64.020;)~~) 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 of 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, (~~(make restitution;)~~) and/or accomplish some community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, (~~(restitution;)~~) a term of community supervision not to exceed one year, and/or a fine. The court may impose a sentence which provides more than one year of confinement if the court finds, 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 (~~(any)~~) a sex offense other than a violation of ((chapter 9A.44 RCW or RCW 9A.64.020 except)) RCW 9A.44.040 or RCW 9A.44.050 and has no prior convictions (~~((of chapter 9A.44 RCW, RCW 9A.64.020;))~~) 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 of 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, (~~make restitution,~~) 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 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 the department of social and health services at the Eastern State Hospital or the Western State Hospital for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of the department 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 programs at Western

State Hospital or Eastern State Hospital, as determined by the secretary of the department of social and health services. The offender shall be transferred to the state pending placement in the treatment program.

If the offender does not comply with the conditions of the treatment program, the secretary of the department of social and health services may refer the matter to the sentencing court for determination as to whether the offender shall be transferred to the department of corrections to serve the balance of his term of confinement.

If the offender successfully completes the treatment program before the expiration of his 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 of 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.

(8) 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.

(9) 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. 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, and (d) to make such other payments as provided by law. All monetary payments shall be ordered paid by no later than ten years after the date of the judgment of conviction.

(10) 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 which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW ((9A-20-020)).

(11) All offenders sentenced to terms involving community supervision, community service, restitution, or fines shall be under the supervision of the secretary of the department or such person as the secretary may designate and shall follow implicitly 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.

(12) 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.

(13) 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).

(14) 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.

Sec. 21. Section 19, chapter 137, Laws of 1981 as amended by section 10, chapter 209, Laws of 1984 and RCW 9.94A.190 are each amended to read as follows:

(1) A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state. Except as provided for in subsection (3) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided for in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall be reduced or eliminated because of funds provided by the legislature to the department of corrections for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.400.

Sec. 22. Section 2, chapter 115, Laws of 1983 as amended by section 16, chapter 209, Laws of 1984 and RCW 9.94A.310 are each amended to read as follows:

(1)

TABLE 1

Sentencing Grid

SERIOUSNESS
SCORE

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
XIV	Life Sentence without Parole/Death Penalty									
XIII	23y4m 240- 320	24y4m 250- 333	25y4m 261- 347	26y4m 271- 361	27y4m 281- 374	28y4m 291- 388	30y4m 312- 416	32y10m 338- 450	36y 370- 493	40y 411- 548
XII	12y 123- 164	13y 134- 178	14y 144- 192	15y 154- 205	16y 165- 219	17y 175- 233	19y 195- 260	21y 216- 288	25y 257- 342	29y 298- 397
XI	6y 62- 82	6y9m 69- 92	7y6m 77- 102	8y3m 85- 113	9y 93- 123	9y9m 100- 133	12y6m 129- 171	13y6m 139- 185	15y6m 159- 212	17y6m 180- 240
X	5y 51- 68	5y6m 57- 75	6y 62- 82	6y6m 67- 89	7y 72- 96	7y6m 77- 102	9y6m 98- 130	10y6m 108- 144	12y6m 129- 171	14y6m 149- 198
IX	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	5y 51- 68	5y6m 57- 75	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144	12y6m 129- 171
VIII	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144

SERIOUSNESS
SCORE

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
VII	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116
VI	13m 12+- 14	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y6m 46- 61	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102
V	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y 41- 54	5y 51- 68	6y 62- 82	7y 72- 96
IV	6m 3- 9	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y2m 53- 70	6y2m 63- 84
III	2m 1- 3	5m 3- 8	8m 4- 12	11m 9- 12	14m 12+- 16	20m 17- 22	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y 51- 68
II	0-90 Days	4m 2- 6	6m 3- 9	8m 4- 12	13m 12+- 14	16m 14- 18	20m 17- 22	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57
I	0-60 Days	0-90 Days	3m 2- 5	4m 2- 6	5m 3- 8	8m 4- 12	13m 12+- 14	16m 14- 18	20m 17- 22	2y2m 22- 29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence if the offender or an accomplice was armed with a deadly weapon

as defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice was armed with a deadly weapon and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following times shall be added to the presumptive range determined under subsection (2) of this section:

- (a) 24 months ((f)) for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.200), or Kidnapping 1((t)) (RCW 9A.40.020)
- (b) 18 months ((f)) for Burglary 1((t)) (RCW 9A.52.020)
- (c) 12 months ((f)) for Assault 2 (RCW 9A.36.020), Escape 1 (RCW 9A.76.110), Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW 9A.52.030), ((Delivery or Possession of a controlled substance with intent to deliver)) or any drug offense

Sec. 23. Section 3, chapter 115, Laws of 1983 as amended by section 17, chapter 209, Laws of 1984 and RCW 9.94A.320 are each 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)
XII	Murder 2 (RCW 9A.32.050)
XI	Assault 1 (RCW 9A.36.010)
X	Kidnapping 1 (RCW 9A.40.020) Rape 1 (RCW 9A.44.040) 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) <u>Leading Organized Crime (RCW 9A.82.060(1)(a))</u>
IX	Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Statutory Rape 1 (RCW 9A.44.070) ((Employing, using, or permitting minor to engage in sexually explicit conduct for commercial use (RCW 9.68A.020))) 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.82.061(1)(b))
- VIII Arson 1 (RCW 9A.48.020)
 Rape 2 (RCW 9A.44.050)
 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)
 Statutory Rape 2 (RCW 9A.44.080)
 Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
 (~~Sending, bringing into the state, possessing, publishing, printing, etc., obscene matter involving minor engaged in sexually explicit conduct (RCW 9.68A.030))~~)
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)
 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) and (c))
 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 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 Robbery 2 (RCW 9A.56.210)
 Assault 2 (RCW 9A.36.020)
 Escape 1 (RCW 9A.76.110)
 Arson 2 (RCW 9A.48.030)
 Bribing a Witness/Bribe Received by Witness (RCW 9A.72-.090, 9A.72.100)
 Malicious Harassment (RCW 9A.36.080)
 Wilful 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 Statutory Rape 3 (RCW 9A.44.090)
 Extortion 2 (RCW 9A.56.130)
 Unlawful Imprisonment (RCW 9A.40.040)
 Assault 3 (RCW 9A.36.030)
 Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
Harassment (RCW 9A.46.020)
Promoting Prostitution 2 (RCW 9A.88.080)
Wilful Failure to Return from Work Release (RCW 72.65.070)
Introducing Contraband 2 (RCW 9A.76.150)
 ((Communicating)) Communication with a Minor for Immoral Purposes (RCW ((9A.44.110)) 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)
 Theft of Livestock 2 (RCW 9A.56.080)
 (~~Welfare Fraud (RCW 74.08.331)~~)
 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)
 (~~Auto Theft (Taking and Riding)~~) Taking Motor Vehicle Without Permission (RCW 9A.56.070)
 Vehicle Prowl 1 (RCW 9A.52.095)
 (~~Eluding~~) 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 (~~Bank~~) Checks or Drafts (RCW 9A.56.060)
 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. 24. Section 4, chapter 115, Laws of 1983 as amended by section 18, chapter 209, Laws of 1984 and RCW 9.94A.330 are each amended to read as follows:

TABLE 3
OFFENDER SCORE MATRIX

Prior Adult Convictions

(Score prior convictions for felony anticipatory crimes (attempts, criminal solicitations, and criminal conspiracies) the same as for the completed crime.)

Current Offenses	Serious Violent	Burglary 1	Other Violent	Vehicular Assault/Homicide	Escape
Serious Violent	3	2	2	2	1
Burglary 1	2	2	2	2	1
Other Violent	2	2	2	2	1
(Vehicular Homicide	0	0	0	2	0
Felony Traffic	1	1	1	2	1
Escape	0	0	0	0	1
Burglary 2	1	2	1	1	1
Other Non-Violent	1	1	1	1	1
Drug	1	1	1	1	1

Current Offenses	Burglary 2	Other Felony Traffic	Serious Traffic	Other Non-Violent	Drug
Serious Violent	1	1	0	1	1
Burglary 1	2	1	0	1	1
Other Violent	1	1	0	1	1
(Vehicular Homicide	0	1	1	0	0
Felony Traffic	1	1	1	1	1
Escape	0	0	0	0	0
Burglary 2	2	1	0	1	1
Other Non-Violent	1	1	0	1	1
Drug	1	1	0	1	2

Prior Juvenile Convictions

(Score prior convictions for felony anticipatory crimes (attempts, criminal solicitations, and criminal conspiracies) the same as for the completed crime.)

Current Offenses	Serious Violent	Burglary 1	Other Violent	Vehicular Assault/Homicide	Escape
Serious Violent	3	2	2	2	1/2
Burglary 1	2	2	2	2	1/2
Other Violent	2	2	2	2	1/2
((Vehicular Homicide	0	0	0	2	0))
Felony Traffic	1/2	1/2	1/2	2	1/2
Escape	0	0	0	0	1/2
Burglary 2	1/2	2	1/2	1/2	1/2
Other					
Non-Violent	1/2	1/2	1/2	1/2	1/2
Drug	1/2	1/2	1/2	1/2	1/2

Current Offenses	Burglary 2	Other Felony Traffic	Serious Traffic	Other Non-Violent	Drug
Serious Violent	1/2	1/2	0	1/2	1/2
Burglary 1	1	1/2	0	1/2	1/2
Other Violent	1/2	1/2	0	1/2	1/2
((Vehicular Homicide	0	1/2	1/2	0	0))
Felony Traffic	1/2	1/2	1/2	1/2	1/2
Escape	0	0	0	0	0
Burglary 2	1	1/2	0	1/2	1/2
Other					
Non-Violent	1/2	1/2	0	1/2	1/2
Drug	1/2	1/2	0	1/2	1

~~((Definitions: Serious Violent: Murder 1, Murder 2, Assault 1, Kidnaping 1, Rape 1
 Escape: Escape 1, Escape 2, Willful Failure to Return From Work Release or Furlough
 Serious Traffic: Driving While Intoxicated, Actual Physical Control, Reckless Driving, Hit-and-Run
 Felony Traffic: Felony Hit-and-Run, Vehicular Assault, Attempting to Elude a Police Officer~~

~~Drug: All felony violations of chapter 69.50 RCW except possession of a controlled substance))~~

Sec. 25. Section 7, chapter 115, Laws of 1983 as amended by section 19, chapter 209, Laws of 1984 and RCW 9.94A.360 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules ~~((are))~~, partially summarized in Table 3, RCW 9.94A.330, are as follows:

The offender score is ~~((computed in the following way:))~~ the sum of points accrued under subsections (1) through (14) of this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

(2) Except as provided in subsections (3) and (13) of this section, class A prior felony convictions shall always be included in the offender score. Class B prior felony convictions shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without being convicted of any felonies. Class C prior felony convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without being convicted of any felonies. Serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without being convicted of any serious traffic or felony traffic offenses. This subsection applies to both adult and juvenile prior convictions. Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law.

(3) Include class A juvenile felonies only if the offender was 15 or older at the time the juvenile offense was committed. Include class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.

~~((2))~~ (4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(a) Prior adult offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently whether those offenses shall be counted as one offense or as separate offenses, and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used;

(b) Juvenile prior convictions entered or sentenced on the same date shall count as one offense, the offense that yields the highest offender score; and

(c) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), or (12) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for Murder 1 or 2, Assault 1, Kidnaping 1, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

((3)) (10) If the present conviction is for Burglary 1, count prior(s) convictions as in subsection ((5)) (8) of this section; however count two points for each prior adult Burglary 2 conviction, and one point for each prior juvenile Burglary 2 conviction.

((4)) (11) If the present conviction is for ((Vehicular Homicide, only)) a felony traffic offense count ((the following crimes as part of the offender score:)) two points for each adult or juvenile prior conviction for

~~Vehicular Homicide((; Vehicular Assault, Felony Hit and Run (RCW 46.52.020(4)), Hit and Run (RCW 46.52.020(5)), Driving While Intoxicated (RCW 46.61.502), Actual Physical Control (RCW 46.61.504), Reckless Driving (RCW 46.61.500), Attempting to Elude a Police Officer (RCW 46.61.500). Count two points for each adult or juvenile Vehicular Homicide conviction, one point for each other adult felony traffic or serious traffic conviction, and 1/2 point for each other juvenile felony traffic or serious traffic conviction:~~

~~(5) If the present conviction is for a violent offense and not covered in subsections (2), (3), (4), or (8) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction)); count one point for each adult, and 1/2 point for each juvenile, prior conviction for each other felony offense or serious traffic offense.~~

~~((6)) (12) If the present conviction is for a drug offense count two points for each adult prior felony drug offense conviction and one point for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.~~

~~(13) If the present conviction is for escape (Escape 1, RCW 9A.76.110; Escape 2, RCW 9A.76.120; Willful Failure to Return from Furlough, RCW 72.66.060; and Willful Failure to Return from Work Release, RCW 72.65.070), count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.~~

~~((7)) (14) If the present conviction is for Burglary 2, count priors as in subsection ((9)) (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 conviction, and one point for each juvenile prior Burglary 2 conviction.~~

~~((8) If the present conviction is for a violation of chapter 69.50 RCW, except for possession of a controlled substance (RCW 69.50.401(d)), count two points for each adult prior felony drug conviction (chapter 69.50 RCW, except RCW 69.50.401(d)), and one point for each juvenile drug conviction. All other adult and juvenile felonies are scored as in subsection (5) of this section if the current drug conviction is violent, or as in subsection (9) of this section if the current drug conviction is nonviolent.~~

~~(9) If the present conviction is for a nonviolent offense and not covered by subsection (6), (7), or (8) of this section, count one point for each prior adult felony conviction and one point for each prior juvenile violent felony conviction and 1/2 point for each prior juvenile nonviolent felony.~~

~~(10) For all offender scores, the fractional totals shall be rounded down to the nearest whole number.~~

~~(11) In the case of multiple prior convictions for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. The conviction for the offense that yields the highest offender score is used.~~

~~(12) Class A prior felony convictions are always included in the offender score. Class B prior felony convictions are not included if the offender has spent ten years in the community and has not been convicted of any felonies since the last date of release from confinement pursuant to a felony conviction (including full-time residential treatment), if any, or entry of judgment and sentence. Class C prior felony convictions and serious traffic convictions as defined in RCW 9.94A.330 are not included if the offender has spent five years in the community and has not been convicted of any felonies since the last date of release from confinement pursuant to a felony conviction (including full-time residential treatment), if any, or entry of judgment and sentence. This subsection applies to both adult and juvenile prior convictions.~~

~~The designation of out-of-state convictions shall be covered by the offense definitions and sentences provided by Washington law.~~

~~The offender score is the sum of points accrued under subsections (1) through (12) of this section.)~~

Sec. 26. Section 8, chapter 115, Laws of 1983 as amended by section 20, chapter 209, Laws of 1984 and RCW 9.94A.370 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The additional time for deadly weapon findings shall be added to the entire presumptive sentence range. The court may impose any sentence within the range that it deems appropriate. All presumptive sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence, the trial court may ~~((use))~~ rely on no more information than is admitted by the plea agreement, ~~((and))~~ or admitted ~~((to or))~~, acknowledged, or proved in a trial or at the time of sentencing. Acknowledgement includes not objecting to information stated in the presentence reports. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The ~~((real))~~ facts shall be deemed ~~((proven))~~ proved at the ~~((evidentiary))~~ hearing by a preponderance of the evidence. ~~((Real))~~ Facts that establish the elements of ~~((a higher crime;))~~ a more serious crime~~(;))~~ or additional crimes ~~((cannot))~~ may not be used to go outside the presumptive sentence range except upon stipulation or when specifically provided for in RCW 9.94A.390(2) (c) and (d).

Sec. 27. Section 10, chapter 115, Laws of 1983 as amended by section 24, chapter 209, Laws of 1984 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

~~((1))~~ (a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

~~((2))~~ (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.

~~((3))~~ (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.

~~((4))~~ (d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

~~((5))~~ (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).

~~((6))~~ (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.

~~((7))~~ (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.

(2) Aggravating Circumstances

~~((1))~~ (a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

~~((2))~~ (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.

~~((3))~~ (c) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

~~((a))~~ (i) The current offense involved multiple victims or multiple incidents per victim;

~~((b))~~ (ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

~~((c))~~ (iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

~~((d))~~ (iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

~~((4))~~ (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 ~~((an))~~ a current offense as a major VUCSA:

~~((a))~~ (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

~~((b))~~ (ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or

~~((c))~~ (iii) The current offense involved the manufacture of controlled substances for use by other parties; or

~~((d))~~ The offender possessed a firearm during the commission of the offense; or

~~((e))~~ (iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or

~~((f))~~ (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

~~((g))~~ (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

~~((h))~~ (e) 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.400))~~ 9.94A.010.

~~((The above considerations are illustrative only and are not intended to be exclusive reasons for exceptional sentences.))~~

Sec. 28. Section 11, chapter 115, Laws of 1983 as amended by section 25, chapter 209, Laws of 1984 and RCW 9.94A.400 are each amended to read as follows:

(1) (a) Except as provided in (b) of this subsection, whenever a person is ~~((convicted of))~~ to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as ~~((criminal history. All sentences so determined shall be served concurrently. Separate crimes encompassing the same criminal conduct))~~ if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that

some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime ((in determining criminal history)). Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.120 and 9.94A.390(2)(c) or any other provision of RCW 9.94A.390.

(b) Whenever a person is convicted of three or more serious violent offenses, as defined in RCW 9.94A.330, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's ((prior convictions as)) criminal history in the offender score and the sentence range for other serious violent offenses shall be determined by using ((a criminal history)) an offender score of zero. The sentence range for any ((remaining)) offenses that are not serious violent offenses shall be determined according to (a) of this subsection. All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(2) Whenever a person while under sentence of felony commits another felony and is sentenced to another term of imprisonment, the latter term shall not begin until expiration of all prior terms.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence of a felony, the sentence shall run ((consecutively)) concurrently with any felony ((sentences previously)) sentence which has been imposed by any court in this or another state or by a federal court(;) subsequent to the commission of the crime being sentenced unless the court pronouncing the ((subsequent)) current sentence expressly orders that they be served ((concurrently)) consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, ((this)) that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) However, in the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community service, community supervision, or any other requirement or conditions of any of the sentences.

Sec. 29. Section 12, chapter 115, Laws of 1983 as amended by section 26, chapter 209, Laws of 1984 and RCW 9.94A.410 are each amended to read as follows:

For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined

by the appropriate offender score and the seriousness level of the crime, and multiplying the range by 75 percent.

In calculating an offender score, count each prior conviction as if the present conviction were for the completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

Sec. 30. Section 15, chapter 115, Laws of 1983 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.

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 ((13)) below for the crimes within these categories.

~~((TABLE 13))~~

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 Statutory Rape

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

2nd Degree Statutory Rape

Incest

~~((Negligent))~~ Vehicular Homicide

Vehicular Assault

3rd Degree Rape

3rd Degree Statutory Rape

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
- ~~((Welfare Fraud))~~
- 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
- Wilful 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. 31. Section 7, chapter 14, Laws of 1975 1st ex. sess. as amended by section 4, chapter 244, Laws of 1979 ex. sess. and RCW 9A.44.070 are each amended to read as follows:

(1) A person over thirteen years of age is guilty of statutory rape in the first degree when the person engages in sexual intercourse with another person who is less than eleven years old.

(2) Statutory rape in the first degree is a class A felony. No person convicted of statutory rape in the first degree shall be granted a deferred or suspended sentence except ~~((for the purpose of commitment to an inpatient treatment facility))~~ under RCW 9.94A.120(7).

Sec. 32. Section 9A.56.080, chapter 260, Laws of 1975 1st ex. sess. as amended by section 2, chapter 174, Laws of 1977 ex. sess. and RCW 9A.56.080 are each amended to read as follows:

(1) Every person who, ~~((without lawful authority and))~~ with intent to sell or exchange and to deprive or defraud the lawful owner thereof, wilfully takes, leads, or transports away, conceals, withholds, slaughters, or otherwise appropriates ~~((to his own use))~~ any horse, mule, cow, heifer, bull, steer, swine, or sheep ~~((shall be))~~ is guilty of theft of livestock in the first degree.

(2) A person who commits what would otherwise be theft of livestock in the first degree but without intent to sell or exchange, and for the person's own use only, is guilty of theft of livestock in the second degree.

(3) Theft of livestock in the first degree is a class B felony.

(4) Theft of livestock in the second degree is a class C felony.

Sec. 33. Section 9, chapter 155, Laws of 1979 as last amended by section 1, chapter 43, Laws of 1984 and RCW 13.50.050 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (11) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section and RCW 13.50.010.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(8) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(9) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(10) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(11) The court shall grant the motion to seal records made pursuant to subsection (10) of this section if it finds that:

(a) Two years have elapsed from the later of: (i) Final discharge of the person from the supervision of any agency charged with supervising juvenile

offenders; or (ii) from the entry of a court order relating to the commission of a juvenile offense or a criminal offense;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense; and

(c) No proceeding is pending seeking the formation of a diversion agreement with that person.

(12) The person making a motion pursuant to subsection (10) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(13) If the court grants the motion to seal made pursuant to subsection (10) of this section, it shall order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(14) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8).

(15) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any conviction for any adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW for any juvenile adjudication of guilt for a class A offense.

(16) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and order the destruction of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(17) The court may grant the motion to destroy records made pursuant to subsection (16) of this section if it finds:

(a) The person making the motion is at least twenty-three years of age;

(b) The person has not subsequently been convicted of a felony;

(c) No proceeding is pending against that person seeking the conviction of a criminal offense; and

(d) The person has never been found guilty of a serious offense.

(18) A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order

the records in that case destroyed. The request shall be granted if the court finds that two years have elapsed since completion of the diversion agreement.

(19) If the court grants the motion to destroy records made pursuant to subsection (16) or (18) of this section, it shall order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(20) The person making the motion pursuant to subsection (16) or (18) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(21) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(22) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(23) Any juvenile justice or care agency may, subject to the limitations in subparagraphs (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older, or is eighteen years of age or older and his or her criminal history consists entirely of one diversion agreement and two years have passed since completion of the agreement.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

Sec. 34. Section 11, chapter 137, Laws of 1981 as last amended by section 6, chapter 443, Laws of 1985 and RCW 9.94A.110 are each amended to read as follows:

Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing. The court shall consider the presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by

the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

NEW SECTION. Sec. 35. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 115, Laws of 1983 and RCW 9.94A.300; and
- (2) Section 8, chapter 443, Laws of 1985 and RCW 9.94A.122.

NEW SECTION. Sec. 36. The sentencing guidelines commission shall consider methods of increasing sentence ranges for offenders who commit a series of physical or sexual abuse offenses. The consideration shall include, but not be limited to, the addition of an aggravating factor under RCW 9.94A.390, changes to the offender scoring rules under RCW 9.94A.390, and amendments to the criminal code. The commission shall consult with organizations concerned with child and sexual abuse as well as the Washington defender association, Washington association of prosecuting attorneys, and the superior court judges association. The commission shall present its recommendations to the 1987 legislature.

NEW SECTION. Sec. 37. 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. 38. Sections 17 through 35 of this act shall take effect July 1, 1986.

Passed the House March 12, 1986.

Passed the Senate March 12, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 258

[House Bill No. 1407]

SEWER OR WATER DISTRICTS—ANNEXATION OF PROPOSED AREAS— DISTRICTS MAY EXPEND FUNDS TO INFORM RESIDENTS

AN ACT Relating to information for residents of areas proposed for annexation into sewer or water districts; adding a new section to chapter 56.24 RCW; and adding a new section to chapter 57.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 56.24 RCW to read as follows:

Sewer districts may expend funds to inform residents in areas proposed for annexation into the district of the following:

- (1) Technical information and data;
- (2) The fiscal impact of the proposed improvement;
- (3) The types of improvements planned.

Expenditures under this section shall be limited to research, preparation, printing, and mailing of the information.

NEW SECTION. Sec. 2. A new section is added to chapter 57.24 RCW to read as follows:

Water districts may expend funds to inform residents in areas proposed for annexation into the district of the following:

- (1) Technical information and data;
- (2) The fiscal impact of the proposed improvement;
- (3) The types of improvements planned.

Expenditures under this section shall be limited to research, preparation, printing, and mailing of the information.

Passed the House January 28, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 259

[Substitute House Bill No. 131]

UNIFORM DISCIPLINARY ACT FOR VARIOUS HEALTH PROFESSIONS REVISED

AN ACT Relating to the regulation of health and health-related professions and businesses; amending RCW 18.130.010, 18.130.020, 18.130.040, 18.130.070, 18.130.080, 18.130.090, 18.130.130, 18.130.160, 18.130.170, 18.130.180, 18.130.190, 18.130.200, 18.130.210, 18.130.900, 18.22.015, 18.25.017, 18.25.090, 18.26.030, 18.26.110, 18.32.085, 18.32.290, 18.32.360, 18.32.390, 18.32.500, 18.32.520, 18.32.530, 18.32.640, 18.36.010, 18.36.020, 18.36.030, 18.36.040, 18.36.050, 18.36.060, 18.36.130, 18.39.130, 18.39.145, 18.39.148, 18.39.150, 18.39.175, 18.39.181, 18.39.231, 18.39.260, 18.39.280, 18.39.290, 18.39.300, 18.39.320, 18.39.330, 18.53.030, 18.53.100, 18.53.140, 18.53.150, 18.54.070, 18.57.005, 18.57A.030, 18.57A.040, 18.57A.050, 18.59.100, 18.59.130, 18.71.030, 18.71.050, 18.71.095, 18.71.200, 18.71.230, 18.71A.040, 18.71A.050, 18.72.020, 18.72.150, 18.72.265, 18.73.020, 18.74.023, 18.74.090, 18.78.050, 18.78.070, 18.78.090, 18.88.270, 18.92.030, 18.92.070, 18.92.120, 18.92.125, 70.54.150, and 70.54.190; reenacting and amending RCW 43.24.110; adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.25 RCW; adding a new section to chapter 18.26 RCW; adding a new section to chapter 18.29 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.34 RCW; adding a new section to chapter 18.36 RCW; adding a new section to chapter 18.39 RCW; adding a new section to chapter 18.50 RCW; adding a new section to chapter 18.53 RCW; adding a new section to chapter 18.54 RCW; adding a new section to chapter 18.55 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.59 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.72 RCW; adding a new section to chapter 18.74 RCW; adding a new section to chapter 18.78 RCW; adding a new section to chapter 18.88 RCW; adding a new section to chapter 18.92 RCW; adding a new section to chapter 18.108 RCW; adding a new section to chapter 18.130 RCW; creating new sections; repealing RCW 18.130.030, 18.22.016, 18.22.017, 18.22.020, 18.22.141, 18.22.151, 18.22.215, 18.25.010, 18.25.018, 18.25.050, 18.26.027, 18.26.035, 18.26.037, 18.26.100, 18.26.120, 18.26.130,

18.26.140, 18.26.150, 18.26.160, 18.26.170, 18.26.180, 18.26.190, 18.26.200, 18.26.210, 18.26.220, 18.26.230, 18.26.240, 18.26.250, 18.26.270, 18.26.280, 18.26.290, 18.26.300, 18.26.310, 18.29.010, 18.29.075, 18.29.080, 18.29.090, 18.32.038, 18.32.055, 18.32.080, 18.32.090, 18.32.230, 18.32.380, 18.32.535, 18.32.540, 18.32.550, 18.32.630, 18.32.650, 18.32.660, 18.32.670, 18.32.680, 18.32.690, 18.32.700, 18.32.710, 18.32.720, 18.32.730, 18.32.740, 18.32.750, 18.32.760, 18.32.770, 18.32.780, 18.34.090, 18.34.100, 18.34.135, 18.34.140, 18.34.150, 18.35.173, 18.36.135, 18.36.140, 18.36.150, 18.39.176, 18.39.179, 18.39.223, 18.39.225, 18.39.310, 18.39.340, 18.50.100, 18.50.120, 18.50.125, 18.53.020, 18.53.155, 18.54.075, 18.54.080, 18.54.100, 18.54.110, 18.54.120, 18.55.065, 18.55.070, 18.55.080, 18.55.090, 18.55.100, 18.57.009, 18.57.030, 18.57.170, 18.57.173, 18.57.175, 18.57.177, 18.57.181, 18.57.185, 18.57.195, 18.57.205, 18.59.030, 18.59.140, 18.59.200, 18.71.018, 18.71.020, 18.71.025, 18.71.120, 18.71.140, 18.71.145, 18.71.165, 18.71.180, 18.72.030, 18.72.135, 18.72.140, 18.72.153, 18.72.160, 18.72.170, 18.72.175, 18.72.180, 18.72.201, 18.72.230, 18.72.240, 18.72.245, 18.72.250, 18.72.260, 18.72.270, 18.72.275, 18.72.280, 18.72.290, 18.72.300, 18.72.320, 18.72.330, 18.74.028, 18.74.080, 18.74.082, 18.74.084, 18.74.086, 18.74.088, 18.74.100, 18.78.053, 18.78.135, 18.78.145, 18.78.155, 18.78.165, 18.78.170, 18.78.175, 18.83.053, 18.88.085, 18.88.210, 18.88.230, 18.88.240, 18.88.250, 18.88.260, 18.88.265, 18.92.033, 18.92.045, 18.92.050, 18.92.160, 18.92.180, 18.92.210, 18.92.220, 18.92.235, 18.108.075, 18.108.080, and 18.108.170; repealing section 3, chapter 38, Laws of 1917 (uncodified); repealing section 2, chapter 48, Laws of 1935 (uncodified); repealing section 7, chapter 5, Laws of 1919 (uncodified); repealing section 30, chapter 16, Laws of 1923 (uncodified); repealing section 8, chapter 222, Laws of 1949 (uncodified); and prescribing penalties.

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

PART I UNIFORM DISCIPLINARY ACT

Sec. 1. Section 1, chapter 279, Laws of 1984 and RCW 18.130.010 are each amended to read as follows:

It is the intent of the legislature to strengthen and consolidate disciplinary procedures for the licensed health and health-related professions and businesses by providing a uniform disciplinary act with standardized procedures for the enforcement of laws the purpose of which is to assure the public of the adequacy of professional competence and conduct in the healing arts.

It is also the intent of the legislature that all health and health-related professions newly credentialed by the state come under the uniform disciplinary act.

Further, the legislature declares that the addition of public members on all health care boards can give both the state and the public, which it has a statutory responsibility to protect, assurances of accountability and confidence in the various practices of health care.

Sec. 2. Section 2, chapter 279, Laws of 1984 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 ((the chapter under which the license is held)) a chapter specified under RCW 18.130.040.

(2) "Department" means the department of licensing.

(3) "Director" means the director of licensing or the director'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.

(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. 3. Section 4, chapter 279, Laws of 1984 and RCW 18.130.040 are each amended to read as follows:

(1) This chapter applies only to the director and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2) (a) The director has authority under this chapter in relation to the following professions:

- (i) Dispensing opticians licensed under chapter 18.34 RCW;
- (ii) Drugless healers licensed under chapter 18.36 RCW;
- (iii) Midwives licensed under chapter 18.50 RCW;
- (iv) Ocularists licensed under chapter 18.55 RCW;

~~(v) ((Psychologists licensed under chapter 18.83 RCW unless a disciplinary committee is established under chapter 18.83 RCW;~~

~~(vi))~~ Massage operators and businesses licensed under chapter 18.108 RCW; and

~~((vii))~~ (vi) Dental hygienists licensed under chapter 18.29 RCW.

(b) The boards having authority under this chapter are as follows:

(i) The podiatry board as established in chapter 18.22 RCW;

(ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;

(iii) The dental disciplinary board as established in chapter 18.32 RCW;

~~(iv) ((The council on hearing aids as established in chapter 18.35 RCW;~~

~~(v))~~ The board of funeral directors and embalmers as established in chapter 18.39 RCW;

~~((vi) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;~~

~~(vii))~~ (v) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

~~((viii))~~ (vi) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

~~((ix))~~ (vii) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

~~((x))~~ (viii) The board of physical therapy as established in chapter 18.74 RCW;

~~((xi))~~ (ix) The board of occupational therapy practice as established in chapter 18.59 RCW;

~~((xii))~~ (x) The board of practical nursing as established in chapter 18.78 RCW;

~~((xiii))~~ (xi) The board of nursing as established in chapter 18.88 RCW; and

~~((xiv))~~ (xii) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter

also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority(~~(; the board of chiropractic examiners, the board of dental examiners, and the board of medical examiners, if adopted pursuant to this chapter by the disciplinary authority)~~)).

Sec. 4. Section 7, chapter 279, Laws of 1984 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 ((federal;)) 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 contempt.

(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. 5. Section 8, chapter 279, Laws of 1984 and RCW 18.130.080 are each amended to read as follows:

A person, ((firm, corporation, or public officer)) including but not limited to consumers, licensees, corporations, organizations, health care facilities, and state and local governmental agencies, may submit a written

complaint to the disciplining authority charging a license holder or applicant with unprofessional conduct and specifying the grounds therefor. If the disciplining authority determines that the complaint merits investigation, or if the disciplining authority has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the disciplining authority shall investigate to determine whether there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.

Sec. 6. Section 9, chapter 279, Laws of 1984 and RCW 18.130.090 are each amended to read as follows:

(1) If the disciplining authority determines, upon investigation, that there is reason to believe a violation of RCW 18.130.180 has occurred, a statement of charge or charges shall be prepared and served upon the license holder or applicant at the earliest practical time. The statement of charge or charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charge or charges. The license holder or applicant must file a request for hearing with the disciplining authority within twenty days after being served the statement of charges. The failure to request a hearing constitutes a default, whereupon the disciplining authority may enter a decision on the basis of the facts available to it.

(2) If a hearing is requested, the time of the hearing shall be fixed by the disciplining authority as soon as convenient, but the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant. A notice of hearing shall be issued at least twenty days prior to the hearing, specifying the time, date, and place of the hearing. The notice shall also notify the license holder or applicant that a record of the proceeding will be kept, that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses, who will be subject to cross-examination, and evidence in his or her own behalf, to cross-examine witnesses testifying against him or her, to examine such documentary evidence as may be produced against him or her, to conduct depositions, and to have subpoenas issued by the disciplining authority.

Sec. 7. Section 13, chapter 279, Laws of 1984 and RCW 18.130.130 are each amended to read as follows:

An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.04 RCW, or an order of summary suspension entered under this chapter, shall take effect immediately upon its being served. The order, if appealed to the court, shall not be stayed pending the appeal unless the disciplining authority or court to which the appeal is taken enters an order staying the order of the disciplining authority, which stay shall provide for terms necessary to protect the public.

Sec. 8. Section 16, chapter 279, Laws of 1984 and RCW 18.130.160 are each amended to read as follows:

Upon a finding that a license 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 disciplining authority may issue an order providing for one or any combination of the following:

- (1) Revocation of the license;
- (2) Suspension of the license for a fixed or indefinite term;
- (3) Restriction or limitation (~~((on the license holder's))~~) of the practice;
- (4) (~~((The establishment of a requirement that))~~) Requiring the ((license holder satisfactorily complete)) satisfactory completion of a specific program of remedial education or treatment;
- (5) The monitoring of the (~~((license holder's))~~) practice by a supervisor approved by the disciplining authority;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;
- (8) Payment of a fine for each violation of this chapter, not to exceed one thousand dollars per violation. Funds received shall be placed in the health professions account;
- (9) Denial of the license request;
- (10) Corrective action (~~((by the license holder))~~);
- (11) Refund of fees (~~((charged))~~) billed to and collected from the consumer (~~((by the license holder))~~).

Any of the actions under this section may be totally or partly stayed by the disciplining authority. In determining what action is appropriate, the disciplining authority must first consider what sanctions are necessary to protect or compensate the public. Only after such provisions have been made may the disciplining authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

Sec. 9. Section 17, chapter 279, Laws of 1984 and RCW 18.130.170 are each amended to read as follows:

(1) If the disciplining authority believes a license holder or applicant may be unable to practice with reasonable skill and safety to consumers by reason of any mental or physical condition, a statement of charges in the name of the disciplining authority shall be served on the license holder or applicant and notice shall also be issued providing an opportunity for a hearing. The hearing shall be limited to the sole issue of the capacity of the license holder or applicant to practice with reasonable skill and safety. If the disciplining authority determines that the license holder or applicant is unable to practice with reasonable skill and safety for one of the reasons

stated in this subsection, the disciplining authority shall impose such sanctions under RCW 18.130.160 as is deemed necessary to protect the public.

(2) In enforcing this section, the disciplining authority may require a license holder or applicant to submit to a mental or physical examination by one or more (~~((physicians, a psychological examination by one or more licensed psychologists))~~) licensed or certified health professionals designated by the disciplining authority (~~(; or any combination thereof)~~). The cost of the examinations ordered by the disciplining authority shall be paid out of the health professions account. In addition to any examinations ordered by the disciplining authority, the licensee may submit (~~((psychiatric;))~~) physical (~~(;)~~) or (~~((psychological))~~) mental examination reports from (~~((physicians or psychologists))~~) licensed or certified health professionals of the license holder's or applicant's choosing and expense. Failure of a license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or denial of the license, consequent upon which a default and final order may be entered without the taking of testimony or presentations of evidence, unless the failure was due to circumstances beyond the person's control. A determination by a court of competent jurisdiction that a license holder or applicant is mentally incompetent or mentally ill is presumptive evidence of the license holder's or applicant's inability to practice with reasonable skill and safety. An individual affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate that the individual can resume competent practice with reasonable skill and safety to the consumer.

(3) For the purpose of subsection (2) of this section, an applicant or license holder governed by this chapter, by making application, practicing, or filing a license renewal, is deemed to have given consent to submit to a mental, physical, or psychological examination when directed in writing by the disciplining authority and further to have waived all objections to the admissibility or use of the examining (~~((physician's or psychologist's))~~) health professional's testimony or examination reports by the disciplining authority on the ground that the testimony or reports constitute privileged communications.

Sec. 10. Section 18, chapter 279, Laws of 1984 and RCW 18.130.180 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license 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 the person's profession, whether the act constitutes a crime or not. (~~((The disciplinary authority shall define by rule acts involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession;))~~) If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplina

action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) ~~Incompetence, negligence, or ((use of any practice or procedure in the practice of the profession which creates an unreasonable risk of physical or mental harm or serious financial loss to the consumer))~~ malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) The possession, use, ~~((addiction to;))~~ prescription for use, ~~((diversion;))~~ or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, ~~((or))~~ the addiction to or diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing ((drugs)) controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers or documents;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;
or

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding;

(9) Failure to comply with an order issued by the disciplining authority or an assurance of discontinuance entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) ~~((Willful or repeated))~~ Violations of rules established by any health agency ((or authority of the state or a political subdivision thereof));

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes 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;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The wilful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by wilful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(23) Drunkenness or habitual intemperance in the use of alcohol or addiction to alcohol;

(24) ~~((Physical))~~ Abuse of a client or patient or sexual contact with a client or patient.

Sec. 11. Section 19, chapter 279, Laws of 1984 and RCW 18.130.190 are each amended to read as follows:

(1) The director shall investigate ~~((bona fide))~~ complaints concerning practice by unlicensed individuals of a profession requiring a license. In the investigation of the complaints, the director shall have the same authority as provided the director for the investigation of complaints against license holders. 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 without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability.

(2) The attorney general, a county prosecuting attorney, the director, a board, or any individual may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any individual practicing a licensed profession without a license from engaging in such practice until the required license is secured. However, the injunction shall not relieve the person so practicing 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 under the jurisdiction of a disciplining authority specified in RCW 18.130.040 ((without a license)), 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. 12. Section 20, chapter 279, Laws of 1984 and RCW 18.130.200 are each amended to read as follows:

A person who attempts to obtain or obtains a license by wilful misrepresentation or fraudulent representation is guilty of a misdemeanor.

Sec. 13. Section 22, chapter 279, Laws of 1984 and RCW 18.130.210 are each amended to read as follows:

If the disciplining authority determines or has cause to believe that a license holder has committed a crime, the disciplining authority, immediately subsequent to issuing findings of fact and a final order, shall~~((, in addition to taking the appropriate administrative action, concurrently))~~ notify the attorney general or the county prosecuting attorney in the county in which the act took place of the facts known to the disciplining authority.

Sec. 14. Section 24, chapter 279, Laws of 1984 and RCW 18.130.900 are each amended to read as follows:

(1) This chapter shall be known and cited as the uniform disciplinary act.

(2) This chapter applies to any conduct, acts, or conditions occurring on or after the effective date of this 1985 act.

(3) This chapter does not apply to or govern the construction of and disciplinary action for any conduct, acts, or conditions occurring prior to the effective date of this 1985 act. Such conduct, acts, or conditions must be construed and disciplinary action taken according to the provisions of law existing at the time of the occurrence in the same manner as if this chapter had not been enacted.

NEW SECTION. Sec. 15. A new section is added to chapter 18.130 RCW to read as follows:

If an individual or business regulated by this chapter violates RCW 18.130.170 or 18.130.180, the attorney general, any prosecuting attorney, the director, the board, or any other person may maintain an action in the name of the state of Washington to enjoin the person from committing the violations. The injunction shall not relieve the offender from criminal prosecution, but the remedy by injunction shall be in addition to the liability of the offender to criminal prosecution and disciplinary action.

NEW SECTION. Sec. 16. Section 3, chapter 279, Laws of 1984 and RCW 18.130.030 are each repealed.

PART II PODIATRY

NEW SECTION. Sec. 17. A new section is added to chapter 18.22 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 18. Section 10, chapter 21, Laws of 1982 and RCW 18.22.015 are each amended to read as follows:

The board shall:

- (1) Administer all laws placed under its jurisdiction;
- (2) Prepare, grade, and administer or determine the nature, grading, and administration of examinations for applicants for podiatrist licenses;
- (3) Examine and investigate all applicants for podiatrist licenses and certify to the director all applicants it judges to be properly qualified((;
- ~~(4) Conduct hearings for the refusal, suspension, or revocation of licenses or appoint a departmental hearing officer to conduct these hearings;~~
- ~~(5) Investigate all reports, complaints, and charges of malpractice, unsafe conditions or practices, or unprofessional conduct against any licensed podiatrist and direct corrective action if necessary;~~
- ~~(6) Issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter;~~
- ~~(7) Take or cause depositions to be taken as needed in any investigation, hearing, or disciplinary proceeding; and~~
- ~~(8) Adopt rules establishing ethical standards for the podiatric profession including rules relating to false or misleading advertising and excessive charges for professional services)).~~

The board may adopt any ((~~other~~)) rules which it considers necessary or proper to carry out the purposes of this chapter.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

- (1) Section 11, chapter 21, Laws of 1982 and RCW 18.22.016;
- (2) Section 26, chapter 279, Laws of 1984 and RCW 18.22.017;

- (3) Section 13, chapter 52, Laws of 1957, section 2, chapter 77, Laws of 1973, section 3, chapter 21, Laws of 1982 and RCW 18.22.020;
- (4) Section 15, chapter 21, Laws of 1982 and RCW 18.22.141;
- (5) Section 16, chapter 21, Laws of 1982 and RCW 18.22.151;
- (6) Section 14, chapter 149, Laws of 1955, section 18, chapter 77, Laws of 1973, section 18, chapter 21, Laws of 1982, section 24, chapter 3, Laws of 1983 and RCW 18.22.215;
- (7) Section 3, chapter 38, Laws of 1917 (uncodified); and
- (8) Section 2, chapter 48, Laws of 1935 (uncodified).

NEW SECTION. Sec. 20. The repeal of RCW 18.22.020, 18.22.141, and 18.22.151 shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART III CHIROPRACTIC

NEW SECTION. Sec. 21. A new section is added to chapter 18.25 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses under this chapter.

NEW SECTION. Sec. 22. A new section is added to chapter 18.26 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the discipline of licensees under this chapter.

Sec. 23. Section 2, chapter 53, Laws of 1959 as last amended by section 27, chapter 287, Laws of 1984 and RCW 18.25.017 are each amended to read as follows:

The board shall meet as soon as practicable after appointment, and shall elect a chairman and a secretary from its members. Meetings shall be held at least once a year at such place as the director of licensing shall determine, and at such other times and places as he deems necessary.

The board may make such rules and regulations, not inconsistent with this chapter, as it deems necessary to carry out the provisions of this chapter.

Each member shall be compensated in accordance with RCW 43.03-.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060, all to be paid out of the general fund on vouchers approved by the director, but not to exceed in the aggregate the amount of fees collected as provided in this chapter.

~~((Members of the board shall be immune from suit in any action, civil or criminal, based upon their duties or other official acts performed in good faith as members of such board.))~~

Sec. 24. Section 15, chapter 5, Laws of 1919 as last amended by section 3, chapter 277, Laws of 1981 and RCW 18.25.090 are each amended to read as follows:

~~((Any person who shall practice or attempt to practice chiropractic, or any person who shall buy, sell or fraudulently obtain any diploma or license to practice chiropractic, or who shall use the title chiropractor, D.C.Ph.C., or any word or title to induce belief that he is engaged in the practice of chiropractic without first complying with the provisions of this chapter, or any person who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor, and every person falsely claiming himself to be the person named in a certificate issued to another, or falsely claiming himself to be the person entitled to the same, shall be guilty of a felony. All subsequent offenses shall be punished in like manner. Nothing herein shall be held to apply to or to regulate any kind of treatment by prayer. PROVIDED, That))~~ On all cards, books, papers, signs or other written or printed means of giving information to the public, used by those licensed by this chapter to practice chiropractic, the practitioner shall use after or below his name the term chiropractor or D.C.Ph.C. designating his line of drugless practice, and shall not use the letters M.D. or D.O.: PROVIDED, That the word doctor or "Dr." may be used only in conjunction with the word "chiropractic" or "chiropractor". Nothing in this chapter shall be held to apply to or to regulate any kind of treatment by prayer.

Sec. 25. Section 3, chapter 171, Laws of 1967 as last amended by section 17, chapter 111, Laws of 1979 ex. sess. and RCW 18.26.030 are each amended to read as follows:

(1) In addition to those acts defined in chapter 18.130 RCW, the term "unprofessional conduct" as used in this chapter and chapter 18.25 RCW ((shall mean the following items or any one or combination thereof:

~~(1) Conviction in any court of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence;~~

~~(2) Fraud or deceit in the obtaining of a license to practice chiropractic;~~

~~(3) A violation of any rule or regulation pertaining to advertising of chiropractic practice or business promulgated by the board;~~

~~(4) The impersonation of another licensed practitioner;~~

~~(5) Habitual intemperance;~~

~~(6) The wilful betrayal of a professional secret;~~

~~(7) Acts of gross misconduct in the practice of the profession;~~

~~(8) Aiding or abetting an unlicensed person to practice chiropractic;~~

~~(9) A declaration of mental incompetency by a court of competent jurisdiction;~~

~~(10)) includes failing to differentiate chiropractic care from any and all other methods of healing at all times((;~~

~~(11) Practicing contrary to laws regulating the practice of chiropractic;~~

- ~~(12) Unprofessional conduct as defined in chapter 19.68 RCW;~~
~~(13) Violation of any ethical standard as established by the board;~~
~~(14) Suspension or revocation of license to practice chiropractic by competent authority in any state or foreign jurisdiction;~~
~~(15) Incompetency to practice chiropractic by reason of illness, drunkenness, excessive use of controlled substances, chemicals, or any other type of material or as a result of any mental or physical condition)).~~

(2) Proceedings involving alleged unprofessional conduct shall be conducted by the attorney general upon the direction of the board.

Sec. 26. Section 11, chapter 171, Laws of 1967 as amended by section 2, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.110 are each amended to read as follows:

The board (~~shall have the following powers and duties:~~

~~(1) To~~) may adopt, amend and rescind such rules and regulations as it deems necessary to carry out the provisions of this chapter(;

~~(2) To establish and promulgate by rules and regulations ethical standards for the chiropractic profession including, but not limited to, regulations relating to advertising, or excessive charging for professional services;~~

~~(3) To investigate all complaints and charges of unprofessional conduct against any holder of a license to practice chiropractic and to hold hearings to determine whether such charges are substantiated or unsubstantiated;~~

~~(4) To employ necessary stenographic or clerical help;~~

~~(5) To issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter;~~

~~(6) To take or cause depositions to be taken as needed in any investigation, hearing, or proceeding)).~~

NEW SECTION. Sec. 27. The following acts or parts of acts are each repealed:

(1) Section 4, chapter 5, Laws of 1919 and RCW 18.25.010;

(2) Section 27, chapter 279, Laws of 1984 and RCW 18.25.018;

(3) Section 8, chapter 5, Laws of 1919, section 21, chapter 30, Laws of 1975 1st ex. sess., section 2, chapter 277, Laws of 1981 and RCW 18.25-.050; and

(4) Section 7, chapter 5, Laws of 1919 (uncodified).

NEW SECTION. Sec. 28. The repeal of RCW 18.25.010 and 18.25-.050 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

NEW SECTION. Sec. 29. The following acts or parts of acts are each repealed:

(1) Section 28, chapter 279, Laws of 1984 and RCW 18.26.027;

(2) Section 15, chapter 97, Laws of 1974 ex. sess., section 19, chapter 158, Laws of 1979 and RCW 18.26.035;

(3) Section 9, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.037;

(4) Section 10, chapter 171, Laws of 1967 and RCW 18.26.100;

(5) Section 12, chapter 171, Laws of 1967, section 3, chapter 39, Laws of 1975 1st ex. sess., section 19, chapter 67, Laws of 1981 and RCW 18.26.120;

(6) Section 13, chapter 171, Laws of 1967, section 4, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.130;

(7) Section 14, chapter 171, Laws of 1967 and RCW 18.26.140;

(8) Section 15, chapter 171, Laws of 1967 and RCW 18.26.150;

(9) Section 16, chapter 171, Laws of 1967, section 5, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.160;

(10) Section 17, chapter 171, Laws of 1967, section 6, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.170;

(11) Section 18, chapter 171, Laws of 1967, section 7, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.180;

(12) Section 19, chapter 171, Laws of 1967, section 23, chapter 158, Laws of 1979 and RCW 18.26.190;

(13) Section 20, chapter 171, Laws of 1967 and RCW 18.26.200;

(14) Section 21, chapter 171, Laws of 1967, section 24, chapter 158, Laws of 1979, section 19, chapter 111, Laws of 1979 ex. sess. and RCW 18.26.210;

(15) Section 22, chapter 171, Laws of 1967, section 25, chapter 158, Laws of 1979 and RCW 18.26.220;

(16) Section 23, chapter 171, Laws of 1967, section 26, chapter 158, Laws of 1979 and RCW 18.26.230;

(17) Section 24, chapter 171, Laws of 1967, section 27, chapter 158, Laws of 1979 and RCW 18.26.240;

(18) Section 25, chapter 171, Laws of 1967 and RCW 18.26.250;

(19) Section 27, chapter 171, Laws of 1967, section 8, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.270;

(20) Section 28, chapter 171, Laws of 1967 and RCW 18.26.280;

(21) Section 29, chapter 171, Laws of 1967, section 28, chapter 158, Laws of 1979 and RCW 18.26.290;

(22) Section 30, chapter 171, Laws of 1967, section 29, chapter 158, Laws of 1979 and RCW 18.26.300; and

(23) Section 32, chapter 171, Laws of 1967 and RCW 18.26.310.

NEW SECTION. Sec. 30. The amendment of RCW 18.26.030 and the repeal of RCW 18.26.035 and 18.26.037 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART IV
DENTAL HYGIENISTS

NEW SECTION. Sec. 31. A new section is added to chapter 18.29 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

NEW SECTION. Sec. 32. The following acts or parts of acts are each repealed:

- (1) Section 26, chapter 16, Laws of 1923 and RCW 18.29.010;
- (2) Section 29, chapter 279, Laws of 1984 and RCW 18.29.075;
- (3) Section 34, chapter 16, Laws of 1923 and RCW 18.29.080;
- (4) Section 35, chapter 16, Laws of 1923 and RCW 18.29.090; and
- (5) Section 30, chapter 16, Laws of 1923 (uncodified).

NEW SECTION. Sec. 33. The repeal of RCW 18.29.010, 18.29.080, and 18.29.090 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART V
DENTISTRY

NEW SECTION. Sec. 34. A new section is added to chapter 18.32 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 35. Section 8, chapter 93, Laws of 1953 and RCW 18.32.085 are each amended to read as follows:

The ~~((director of licensing shall have))~~ dental disciplinary board has the power and it shall be ~~((his))~~ its duty to:

(1) Require licensed dentists to keep and maintain a copy of each laboratory referral instruction, describing detailed services rendered, for a period to be determined by the ~~((director))~~ board but not more than three years, and to require the production of all such records for examination by the ~~((director of licensing))~~ board or ~~((his))~~ its authorized representatives; and

(2) Promulgate reasonable rules and regulations requiring licensed dentists to make, maintain and produce for examination by the ~~((director of licensing))~~ board or ~~((his))~~ its authorized representatives such other records as may be reasonable and proper in the performance of ~~((his))~~ its duties and enforcing the provisions of this chapter.

Sec. 36. Section 20, chapter 112, Laws of 1935 and RCW 18.32.290 are each amended to read as follows:

It shall be unlawful for any person, firm or corporation to publish, directly or indirectly, or circulate any fraudulent, false or misleading statements within the state of Washington as to the skill or method of practice of any person or operator; or in any way to advertise in print any matter with a view of deceiving the public, or in any way that will tend to deceive or defraud the public; or to claim superiority over neighboring dental practitioners; or to publish reports of cases or certificates of same in any public advertising media; or to advertise as using any anesthetic, drug, formula, medicine, which is either falsely advertised or misnamed; ~~((or to advertise any amount as a price or fee for the service or services of any person engaged as principal or agent in the practice of dentistry, or for any material or materials whatsoever used or to be used;))~~ or to employ "capper" or "steerers" to obtain patronage; ~~((or to give a public demonstration of skill or methods of practicing dentistry upon or along the streets or highways;))~~ and any person committing any offense against any of the provisions of this section shall, upon conviction, be subjected to such penalties as are provided in this chapter: PROVIDED, That any person licensed under this chapter may announce credit, terms of credit or installment payments that may be made at periodical intervals to apply on account of any dental service rendered ~~((: AND PROVIDED FURTHER, That any person licensed under this chapter shall not advertise any specific amount of credit, terms of credit or installment payments that may be made at periodical intervals to apply on account of any dental service rendered))~~. The dental disciplinary board may adopt such rules as are necessary to carry out the intent of this section.

Sec. 37. Section 39, chapter 52, Laws of 1957 and RCW 18.32.360 are each amended to read as follows:

~~((It shall be unlawful for any person to practice dentistry under any name, except his own, which shall be that used in his license issued by the director: PROVIDED, That this shall not apply to any person who was practicing dentistry in this state on March 20, 1935, under an association or trade name:~~

~~It shall be unlawful for any person to conduct a dental office in his name, or to advertise his name in connection with any dental offices, unless he is personally present therein operating as a dentist, or personally overseeing the operations performed in any office, during most of the time that that office is being operated: PROVIDED, That this section shall not prohibit any person from continuing to conduct any offices legally conducted in this state on March 20, 1935;))~~ Any advertisement or announcement for dental services must include for each office location advertised the names of all persons practicing dentistry at that office location.

Any violation of the provisions of this section shall constitute improper, unprofessional and dishonorable conduct; it shall also constitute grounds for injunction proceedings as provided by ~~((this chapter))~~ RCW 18.130.190(2), and in addition shall constitute a gross misdemeanor.

Sec. 38. Section 16, chapter 112, Laws of 1935 and RCW 18.32.390 are each amended to read as follows:

Any person who (~~shall practice or offer to practice dentistry in this state without being registered or without a license for that purpose, or~~) violates any of the provisions of the chapter for which no specific penalty has been provided herein, shall be subject to prosecution before any court of competent jurisdiction, and shall, upon conviction, be guilty of a gross misdemeanor.

Sec. 39. Section 37, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.500 are each amended to read as follows:

RCW 18.32.510 through (~~18.32.780~~) 18.32.620 shall be known and may be cited as the "Dental Disciplinary Board Act".

Sec. 40. Section 2, chapter 5, Laws of 1977 ex. sess. as amended by section 36, chapter 158, Laws of 1979 and RCW 18.32.520 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout RCW 18.32.510(~~, and 18.32.530~~) through (~~18.32.780~~) 18.32.620.

(1) "Board" means the dental disciplinary board created in RCW 18.32.560.

(2) "License" means a certificate or license to practice dentistry in this state as provided for in this chapter.

(3) "Member" means member of the dental disciplinary board.

(4) "Secretary" means the secretary of the dental disciplinary board.

(5) "Director" means the director of licensing of the state of Washington.

(6) "To practice dentistry" means to engage in the practice of dentistry as defined in RCW 18.32.020.

Sec. 41. Section 3, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.530 are each amended to read as follows:

In addition to those acts defined in chapter 18.130 RCW, the term "unprofessional conduct" as used in RCW 18.32.530 through (~~18.32.780~~) and in RCW 18.32.230 as now or hereafter amended shall mean any one of the following items or any combination thereof:

~~(1) The commission of any act involving moral turpitude, dishonesty, or corruption, which act relates to a person's fitness to practice dentistry; and if the act constitutes a crime, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction, however, the judgment and sentence shall be conclusive evidence at an ensuing disciplinary hearing of the guilt of the respondent dentist of the crime described in the indictment or information, and of said respondent dentist's violation of the statute upon which it is based. PROVIDED, That~~

nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

~~(2) Making any misrepresentation or false promise directly or indirectly to influence, persuade or induce dental patronage, or engaging in any other improper, unprofessional, or dishonorable conduct in the practice of dentistry;~~

~~(3) Misrepresentation or concealment of a material fact in the obtaining of a license to practice dentistry or in the reinstatement of such license;~~

~~(4) Division of fees or agreeing to split or divide the fees received for dental services with any person for bringing or referring a patient, or for assisting in the care or treatment of a patient, without the knowledge of said patient or the patient's legal representative;~~

~~(5) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry. The person practiced upon shall not be deemed an accomplice, employer, procurer, inducer, aider, or abettor within the meaning of RCW 18.32.530 through 18.32.780;~~

~~(6) Professional connection or association with or lending a dentist's name to another for the illegal practice of dentistry by another, or professional connection or association with any person, firm or corporation holding itself out in any manner contrary to this chapter;~~

~~(7) The impersonation of another licensed practitioner;~~

~~(8) Suspension or revocation of the dentist's license to practice dentistry by competent authority in any state, federal, or foreign jurisdiction;~~

~~(9) Gross incompetency in the practice of dentistry;~~

~~(10)) 18.32.620 includes gross, wilful ((and)), or continued over-charging for professional services((;~~

~~(11) Wilful or repeated violations of lawful rules established by any health officer of the state or any municipal corporation or division thereof;~~

~~(12) Habitual intoxication or addiction to the use of controlled substances;~~

~~(13) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for therapeutic purposes or in violation of law;~~

~~(14) Any conduct in violation of this chapter;~~

~~(15) Wilful violation of RCW 18.32.540 or wilful disregard of a subpoena or notice of the dental disciplinary board)).~~

Sec. 42. Section 14, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.640 are each amended to read as follows:

The board ~~((shall have the following powers and duties:~~

~~(1) To)) may adopt, amend, and rescind such rules as it deems necessary to carry out ~~((the provisions of RCW 18.32.510, and 18.32.530 through 18.32.780;~~~~

~~(2) To investigate all complaints and charges of unprofessional conduct against any holder of a license and to hold hearings to determine whether or not such charges can be substantiated;~~

~~(3) To employ necessary stenographic or clerical help under the provisions of chapter 41.06 RCW;~~

~~(4) To issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding;~~

~~(5) To take or cause depositions to be taken as needed in any investigation, hearing, or proceeding;~~

~~(6) To investigate complaints and charges of malpractice, unsafe conditions and practices, and to analyze equipment, procedures, and training, in such cases, and to direct corrective action)) this chapter.~~

NEW SECTION. Sec. 43. The following acts or parts of acts are each repealed:

(1) Section 30, chapter 279, Laws of 1984 and RCW 18.32.038;

(2) Section 1, chapter 99, Laws of 1981 and RCW 18.32.055;

(3) Section 22, chapter 112, Laws of 1935, section 29, chapter 5, Laws of 1977 ex. sess., section 5, chapter 277, Laws of 1981 and RCW 18.32.080;

(4) Section 27, chapter 52, Laws of 1957, section 6, chapter 277, Laws of 1981 and RCW 18.32.090;

(5) Section 8, chapter 112, Laws of 1935, section 30, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.230;

(6) Section 23, chapter 112, Laws of 1935, section 32, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.380;

(7) Section 31, chapter 279, Laws of 1984 and RCW 18.32.535;

(8) Section 4, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.540;

(9) Section 5, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.550;

(10) Section 13, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.630;

(11) Section 15, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.650;

(12) Section 16, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.660;

(13) Section 17, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.670;

(14) Section 18, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.680;

(15) Section 19, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.690;

(16) Section 20, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.700;

(17) Section 21, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.710;

(18) Section 22, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.720;

(19) Section 23, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.730;

(20) Section 24, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.740;

(21) Section 25, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.750;

(22) Section 26, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.760;

(23) Section 27, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.770; and

(24) Section 28, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.780.

NEW SECTION. Sec. 44. The repeal of RCW 18.32.090 and 18.32.550 and the amendment of RCW 18.32.290, 18.32.360, and 18.32.530 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART VI DISPENSING OPTICIANS

NEW SECTION. Sec. 45. A new section is added to chapter 18.34 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

NEW SECTION. Sec. 46. The following acts or parts of acts are each repealed:

(1) Section 9, chapter 43, Laws of 1957 and RCW 18.34.090;

(2) Section 10, chapter 43, Laws of 1957 and RCW 18.34.100;

(3) Section 32, chapter 279, Laws of 1984 and RCW 18.34.135;

(4) Section 14, chapter 43, Laws of 1957 and RCW 18.34.140; and

(5) Section 15, chapter 43, Laws of 1957 and RCW 18.34.150.

NEW SECTION. Sec. 47. The repeal of RCW 18.34.090 and 18.34.140 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART VII HEARING AIDS

NEW SECTION. Sec. 48. Section 33, chapter 279, Laws of 1984 and RCW 18.35.173 are each repealed.

PART VIII
DRUGLESS HEALING

NEW SECTION. Sec. 49. A new section is added to chapter 18.36 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 50. Section 13, chapter 36, Laws of 1919 and RCW 18.36.010 are each amended to read as follows:

The term "drugless therapeutics," as used in (~~RCW 18.36.010 through 18.36.165~~) this chapter consists of hydrotherapy, dietetics, electrotherapy, radiography, sanitation, suggestion, mechanical and manual manipulation for the stimulation of physiological and psychological action to establish a normal condition of mind and body, but shall in no way include the giving, prescribing or recommending of pharmaceutical drugs and poisons for internal use, the purpose of (~~RCW 18.36.010 through 18.36.165~~) this chapter being to confine practitioners hereunder to drugless therapeutics. A person shall be considered as practicing within the meaning of this chapter if the person uses, prescribes, directs, or recommends any drugless treatment for the relief of a wound, fracture, bodily injury, or disease, either mental or physical.

The words "certificate" and "license" shall be known as interchangeable terms.

Sec. 51. Section 12, chapter 36, Laws of 1919 and RCW 18.36.020 are each amended to read as follows:

The term "separate and coordinate system" as used in (~~RCW 18.36.010 through 18.36.165~~) this chapter is defined as follows:

Food science. Is the science of treating disease through the chemical action of foods, water, nonmedicinal herbs, roots, barks and all natural food elements other than pharmaceutical drugs and poisons, to bring about a normal condition of health.

Mechano-therapy. Is a system of therapeutics which enables the practitioner to know how to apply scientifically the mechanics of hydrotherapy, dietetics, circumstances, idea and manual manipulation for the stimulation of psycho and physiological action to establish a normal condition of the body.

Suggestive therapeutics. Is a system of healing which enables the practitioner to know how to offer suggestions that will cause the mind of the patient to overcome the disease of the body and bringing mind and body into harmony, and both into harmony with environment.

Physcultopathy. Is a system of healing which enables the practitioner to know the scientific effect of movements on the body and how to direct a system of mechanical gymnastics that restore the diseased parts or functions to a normal condition.

Sec. 52. Section 8, chapter 36, Laws of 1919 and RCW 18.36.030 are each amended to read as follows:

Nothing in (~~RCW 18.36.010 through 18.36.165~~) this chapter shall be construed as to prohibit service in the case of emergency, or the domestic administration of families' remedies, nor shall (~~RCW 18.36.010 through 18.36.165~~) this chapter apply to any commissioned health officer in the United States army, navy or marine hospital service, in discharge of his official duties, nor to any licensed dentist when engaged exclusively in the practice of dentistry, nor to any duly licensed physician in the practice of medicine, or surgery, nor to a person duly licensed to practice osteopathy, from using or recommending drugless methods of healing in the course of their practice, nor shall this apply to any practitioner from any other state who visits this state in response to a call to treat a particular patient: PROVIDED, such practitioner shall not open an office or appoint a place of meeting patients within the limits of this state, nor shall (~~RCW 18.36.010 through 18.36.165~~) this chapter be construed to discriminate against any particular school of drugless therapeutics or to interfere in any way with the practice of religion: PROVIDED, also that nothing in (~~RCW 18.36.010 through 18.36.165~~) this chapter shall be held to apply to, or regulate any kind of treatment by prayer.

Sec. 53. Section 3, chapter 36, Laws of 1919 as amended by section 39, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.36.040 are each amended to read as follows:

Only persons desiring to practice drugless therapeutics in this state shall apply to said director for a license and pay a fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086, which sum in no case shall be refunded. If at a time appointed, or at the next regular examination, he or she shall prove he or she has completed a residence course of three entire sessions of thirty-six weeks each at a chartered drugless school, the entrance requirements of which was a high school education, or its equivalent and shall pass an examination in the following subjects, to wit: anatomy, physiology, hygiene, symptomatology, urinalysis, dietetics, hydrotherapy, radiography, electrotherapy, gynecology, obstetrics, psychology, mechanical and manual manipulation, they shall be granted a license by said director, or if the school attendance of said applicant was prior to the passage of RCW 18.36.010 (~~through 18.36.165~~) a diploma from a chartered drugless school, the entrance requirements of which was a common school education or its equivalent, and two years continuous practice in this state shall suffice; or if the applicant has no diploma but has been in continuous practice in any of the drugless systems herein mentioned for the past four years, two years of which shall have been in continuous practice in one place in this state, he or she shall be allowed to practice: PROVIDED, said applicant shall take an examination on the following subjects: anatomy, physiology, hygiene, symptomatology, mechanical

and manual manipulation. After such examination the director shall grant the applicant a license to practice drugless therapeutics in the state of Washington. The examinations shall be both scientific and practical and thoroughly test the fitness of the candidate. All answers to questions peculiar to any school of therapeutics shall be scrutinized and their sufficiency passed upon by the director, but the following subjects, to wit: anatomy, physiology, hygiene, urinalysis, and gynecology, shall be construed to be in common with all systems herein mentioned, and each candidate shall be examined in each of said subjects: PROVIDED, after 1921, the following subjects shall be construed as common to all systems, to wit: anatomy, physiology, hygiene, urinalysis, symptomatology, hydrotherapy, and gynecology. (~~The director may refuse to grant a license to, or may revoke the license of any person guilty of unprofessional conduct, subject to the right of appeal within ninety days, to the superior court of the county where the board met when said license was refused, or revocation made. Any license granted without a full and fair compliance with the provisions of RCW 18.36.010 through 18.36.165 may be canceled in any action brought in the name of the state by the prosecuting attorney of the county where the examination was held, or said action may be brought by the attorney general; and if a license is denied an applicant shall have the right to petition the superior court where said examination was held for an order compelling said board to issue said license.~~)

Continuous practice as herein provided shall be construed to apply to drugless physicians who have actually been practicing in this state, even if they have not received a license under the present medical laws.

Sec. 54. Section 11, chapter 36, Laws of 1919 as amended by section 40, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.36.050 are each amended to read as follows:

The examination held by the director under (~~RCW 18.36.010 through 18.36.165~~) this chapter shall be conducted in accordance with the following regulations:

(1) Each applicant is required to make an affidavit setting forth his age, place of residence, time and place of each course of lectures, or other work connected with his drugless education and the date of graduation, or length of time in practice. The affidavit must be corroborated by the exhibition of a certificate from the proper officers of the college, showing that the applicant had completed the prescribed course for graduation. No advance standing shall be recognized for work done at other than drugless colleges.

(2) A fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 must accompany the application. This fee is under no consideration to be returned, but if the applicant should fail to secure an average of sixty-five percent, and should be denied a license, such applicant shall, without paying a further fee and without losing

his classification under ~~((the provisions of RCW 18.36.010 through 18.36.165))~~ this chapter, be permitted to take another examination any time within two years. Drugless practitioners who hold a diploma from a legally incorporated drugless school who have practiced in this state two years previous to the passing of RCW 18.36.010 ~~((through 18.36.165))~~ and those having no diploma but who have been in continuous practice in this state for three years, shall be given a credit of fifteen percent on the general average.

(3) The examination shall be in charge of the director, and the papers of candidates shall be known by numbers which shall be arranged as follows: Envelopes shall be numbered and each containing a blank corresponding to the number, on which blank the applicant shall write his name and address, and return to the envelope, sealed by the applicant, and delivered to the director. Each candidate shall place on his paper the number given him and the year of graduation.

(4) The director shall examine the papers and place the mark opposite each candidate's number. When the markings are completed, the envelopes containing the names are to be opened and the names placed opposite their respective numbers.

(5) No dishonest methods will be tolerated, and any candidate disregarding these rules shall be debarred from further examination.

(6) Each subject for examination shall be covered by ten questions, and two hours' time shall be allowed for each subject.

(7) No candidate shall be allowed to leave the examination room after the question papers have been distributed, until the questions are answered and delivered to the examiners in charge.

(8) All examinations shall be in English. Within twenty days after a license is granted or refused, the reasons shall be set forth in writing and placed with the papers used in the examination, and all of said examination papers shall be filed with the director within thirty days after said license has been granted or refused.

Sec. 55. Section 4, chapter 36, Laws of 1919 and RCW 18.36.060 are each amended to read as follows:

The following forms of certificates shall be issued by the director:

(1) A certificate authorizing the holder thereof to practice mechanotherapy;

(2) A certificate authorizing the holder thereof to practice suggestive therapeutics;

(3) A certificate authorizing the holder thereof to practice food science;

(4) A certificate authorizing the holder thereof to practice physcultopathy;

(5) A certificate for any other separate and coordinate system of drugless practice: **PROVIDED**, they shall show evidence of not less than fifty graduates, practicing in this state, whose requirements shall be no less than

as set forth in (~~RCW 18.36.010 through 18.36.165~~) this chapter. Practitioners hereunder shall confine their practice to the subjects and system or systems represented by their certificate or certificates granted by said director. The applicant for an examination must file satisfactory testimonials of good moral character and a diploma issued by some legally chartered drugless college, or satisfactory evidence of having possessed such diploma, except as herein otherwise provided, and must fill out a blank application to be sworn to before some person authorized to take acknowledgments, showing that he or she is the person named in the diploma, is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination, without fraud or misrepresentation. The said application shall be made on a blank furnished by said director, and shall contain such other information concerning the instruction and preliminary education of the applicant as said director may by rule adopt.

Sec. 56. Section 7, chapter 36, Laws of 1919 and RCW 18.36.130 are each amended to read as follows:

All persons granted licenses or certificates under (~~RCW 18.36.010 through 18.36.165~~) this chapter shall be subject to the state and municipal regulations, relating to the control of contagious diseases, the reporting and certifying of births and deaths, and all matters pertaining to public health; and all such reports shall be accepted as legal.

NEW SECTION. Sec. 57. The following acts or parts of acts are each repealed:

- (1) Section 34, chapter 279, Laws of 1984 and RCW 18.36.135;
- (2) Section 10, chapter 36, Laws of 1919 and RCW 18.36.140; and
- (3) Section 9, chapter 36, Laws of 1919 and RCW 18.36.150.

NEW SECTION. Sec. 58. The repeal of RCW 18.36.140 and 18.36.150 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART IX

EMBALMERS AND FUNERAL DIRECTORS

NEW SECTION. Sec. 59. A new section is added to chapter 18.39 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 60. Section 15, chapter 108, Laws of 1937 as last amended by section 22, chapter 66, Laws of 1982 and RCW 18.39.130 are each amended to read as follows:

The (~~director~~) board may recognize licenses issued to funeral directors or embalmers from other states if the applicant's qualifications are comparable to the requirements of this chapter. Upon presentation of the

license and payment by the holder of a fee determined under RCW (~~(43-24.085 as now or hereafter amended)~~) 43.24.086, the ~~((director))~~ board may issue a funeral director's or embalmer's license under this chapter. The license may be renewed annually upon payment of the renewal license fee as herein provided by license holders residing in the state of Washington.

Sec. 61. Section 3, chapter 93, Laws of 1977 ex. sess. and RCW 18.39.145 are each amended to read as follows:

The ~~((director))~~ board shall issue a funeral establishment license to any person, partnership, association, corporation, or other organization to operate a funeral establishment, at specific locations only, which has met the following requirements:

(1) The applicant has designated the name under which the funeral establishment will operate and has designated locations for which the general establishment license is to be issued;

(2) The applicant is licensed in this state as a funeral director and as an embalmer, or employs at least one person with both such qualifications or one licensed funeral director and one embalmer who will be in service at each designated location;

(3) The applicant has filed an application with the director as required by this chapter and paid the required filing fee therefor as fixed by the director pursuant to RCW (~~(43-24.085)~~) 43.24.086;

(4) As a condition of applying for a new funeral establishment license, the person or entity desiring to acquire such ownership or control shall be bound by all then existing prearrangement funeral service contracts.

~~((The director shall make the determination of qualifications of all applicants within a reasonable time after the filing of an application with the director.))~~ The board may deny an application for a funeral establishment license, or issue a conditional license, if disciplinary action has previously been taken against the applicant or the applicant's designated funeral director or embalmer. No funeral establishment license shall be transferable, but an applicant may make application for more than one funeral establishment license so long as all of the requirements are met for each license. All funeral establishment licenses shall expire on June 30, or as otherwise determined by the director.

Sec. 62. Section 4, chapter 93, Laws of 1977 ex. sess. as amended by section 9, chapter 43, Laws of 1981 and RCW 18.39.148 are each amended to read as follows:

If a licensed funeral establishment does not have a licensed funeral director and embalmer in its employ at its place of business, its license shall be canceled immediately by the ~~((director or the))~~ board. Upon notification of cancellation of a funeral establishment license, the funeral establishment shall be notified of the opportunity for a hearing, which shall be conducted pursuant to chapter 34.04 RCW.

Sec. 63. Section 8, chapter 108, Laws of 1937 as last amended by section 10, chapter 43, Laws of 1981 and RCW 18.39.150 are each amended to read as follows:

Any licensed funeral director or embalmer whose license has lapsed shall reapply for a license and pay a fee as determined under RCW (~~(43-24.085)~~) 43.24.086 as now or hereafter amended before the license may be issued. Applications under this section shall be made within one year after the expiration of the previous license. If the application is not made within (~~(three)~~) one year(~~(s)~~), the applicant shall be required to take an examination or submit other satisfactory proof of continued competency approved by the (~~(director)~~) board and pay the license fee, as required by this chapter in the case of initial applications, together with all unpaid license fees and penalties.

Sec. 64. Section 9, chapter 93, Laws of 1977 ex. sess. as last amended by section 34, chapter 287, Laws of 1984 and RCW 18.39.175 are each amended to read as follows:

Each member of the board of funeral directors and embalmers shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The state board of funeral directors and embalmers shall have the following duties and responsibilities:

- (1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;
- (2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";
- (3) To make findings and recommendations to the director on any and all matters relating to the enforcement of this chapter;
- (4) To adopt, promulgate, and enforce reasonable rules; and
- (5) To examine or audit or to direct the examination and audit of pre-arrangement funeral service trust fund records for compliance with this chapter and rules adopted by the board.
- (6) ~~To ((suspend or revoke any license, after proper hearing and notice to the licensee,))~~ conduct disciplinary proceedings under chapter 18.130 RCW if the licensee has violated that chapter or has committed ((any of the following:
 - ~~(a) A crime involving moral turpitude and resulting in a conviction;~~
 - ~~(b)) unprofessional conduct, which includes:~~
 - ~~((i) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer;~~
 - ~~(ii) False or misleading advertising as a funeral director or embalmer;~~
 - ~~(iii)) (a) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether the solicitation occurs after death or while~~

death is impending. This chapter does not prohibit general advertising or the sale of pre-need funeral plans;

~~((iv))~~ (b) Employment by the licensee of persons known as "cap-pers," "steerers," or "solicitors" or other persons to obtain funeral directing or embalming business;

~~((v))~~ (c) Employment directly or indirectly of any person for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

~~((vi))~~ (d) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants, or employees, for the purpose of securing business;

~~((vii) Aiding or abetting an unlicensed person to practice funeral directing or embalming;~~

~~((viii))~~ (e) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum, or cemetery;

~~((ix))~~ (f) Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of a dead human body without the written consent of next of kin;

~~((x) Violation of any of the provisions of this chapter or the rules in support thereof;~~

~~((xi))~~ (g) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies;

~~((xii) Fraud or misrepresentation in obtaining a license;~~

~~((xiii))~~ (h) Refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to its custody;

~~((xiv))~~ (i) Selling, or offering for sale, a share, certificate, or an interest in the business of any funeral director or embalmer, or in any corporation, firm, or association owning or operating a funeral establishment, which promises or purports to give to purchasers a right to the services of the funeral director, embalmer, or corporation, firm, or association at a charge or cost less than that offered or given to the public; or

~~((xv))~~ (j) Knowingly concealing information concerning a violation of this chapter;

~~((6))~~ (7) To adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal.

Sec. 65. Section 5, chapter 93, Laws of 1977 ex. sess. as amended by section 13, chapter 43, Laws of 1981 and RCW 18.39.181 are each amended to read as follows:

The director shall have the following powers and duties:

(1) ~~((To determine the qualifications of applicants for all licenses under this chapter;~~

~~(2))~~ To issue all licenses provided for under this chapter;

~~((3))~~ (2) To annually renew licenses under this chapter;

~~((4))~~ (3) To collect all fees prescribed and required under this chapter; and

~~((5))~~ (4) To keep general books of record of all official acts, proceedings, and transactions of the department of licensing while acting under this chapter.

Sec. 66. Section 15, chapter 66, Laws of 1982 and RCW 18.39.231 are each amended to read as follows:

A funeral director or any person under the supervision of a funeral director shall not, in conjunction with any professional services performed for compensation under this chapter, provide financial or investment advice to any person other than a family member, represent any person in a real estate transaction, or act as an agent under a power of attorney for any person. However, this section shall not be deemed to prohibit a funeral establishment from entering into prearrangement funeral service contracts in accordance with this chapter or to prohibit a funeral director from providing advice about government or insurance benefits.

A violation of this section is a gross misdemeanor and is grounds for disciplinary action ~~(, including suspension or revocation of the license, as provided in RCW 18.39.179)).~~

The board shall adopt such rules as the board deems reasonably necessary to prevent unethical financial dealings between funeral directors and their clients.

Sec. 67. Section 4, chapter 66, Laws of 1982 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 ~~((director))~~ 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. The funeral establishment shall comply with all requirements related to the sale of prearrangement contracts until all obligations have been fulfilled.

Sec. 68. Section 7, chapter 66, Laws of 1982 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 ~~((director))~~ 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

(d) Such other documents, stipulations, or information as the ~~((director))~~ 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. 69. Section 8, chapter 66, Laws of 1982 and RCW 18.39.290 are each amended to read as follows:

All certificates of registration issued pursuant to this chapter shall continue in force until the expiration date unless suspended~~((;))~~ or ~~re-~~ re- ~~vo-~~ vo- ~~ked((,-or-renewed)).~~ A certificate shall be subject to renewal annually ~~((on the first day of July upon))~~ ninety days after the end of its fiscal year, as stated on the original application, by the funeral establishment and payment of the required fees.

The director shall determine and collect ~~((in advance the following))~~ fees~~((:~~

(1) ~~Certificate of registration:~~

(a) ~~Issuance — thirty-five dollars;~~

(b) ~~Renewal — fifteen dollars;~~

(2) ~~Annual statement of financial condition — ten dollars))~~ related to certificate of registration licensure.

All fees so collected shall be remitted by the director to the state treasurer not later than the first business day following receipt of such funds and the funds shall be credited to the ~~((general fund))~~ health professions account.

Sec. 70. Section 6, chapter 66, Laws of 1982 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 ((director)) board may ((refuse to renew or may revoke or suspend a))~~ 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 ((funeral establishment)) 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 ~~((director))~~ board;

(2) Is found by the ~~((director))~~ 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 ~~((director))~~ board when required; or

(4) Is found by the ((director)) 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 hazardous to purchasers, beneficiaries, or to the public.

Sec. 71. Section 10, chapter 66, Laws of 1982 and RCW 18.39.320 are each amended to read as follows:

(1) Each authorized funeral establishment shall annually, ~~((before the first day of March))~~ at the time of its registration renewal, file with the ((director)) board a true and accurate statement of its financial condition, transactions, and affairs for ((the)) its preceding ~~((calendar))~~ fiscal year. The statement shall be on such forms and shall contain such information as required by this chapter and by the ((director)) board.

(2) The ((director)) board shall ~~((suspend or revoke))~~ 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 ((director)) board has, for good cause, granted.

Sec. 72. Section 11, chapter 66, Laws of 1982 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 ((director)) board.

The ((director)) 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.

NEW SECTION. Sec. 73. The following acts or parts of acts are each repealed:

- (1) Section 35, chapter 279, Laws of 1984 and RCW 18.39.176;
- (2) Section 12, chapter 43, Laws of 1981 and RCW 18.39.179;
- (3) Section 6, chapter 93, Laws of 1977 ex. sess., section 17, chapter 43, Laws of 1981 and RCW 18.39.223;
- (4) Section 7, chapter 93, Laws of 1977 ex. sess., section 18, chapter 43, Laws of 1981 and RCW 18.39.225;
- (5) Section 9, chapter 66, Laws of 1982 and RCW 18.39.310; and
- (6) Section 12, chapter 66, Laws of 1982 and RCW 18.39.340.

NEW SECTION. Sec. 74. The repeal of RCW 18.39.179 and the amendment of RCW 18.39.175 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART X MIDWIFERY

NEW SECTION. Sec. 75. A new section is added to chapter 18.50 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

NEW SECTION. Sec. 76. The following acts or parts of acts are each repealed:

(1) Section 7, chapter 160, Laws of 1917, section 9, chapter 53, Laws of 1981 and RCW 18.50.100;

(2) Section 9, chapter 160, Laws of 1917 and RCW 18.50.120; and

(3) Section 36, chapter 279, Laws of 1984 and RCW 18.50.125.

NEW SECTION. Sec. 77. The repeal of RCW 18.50.100 and 18.50.120 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XI OPTOMETRY

NEW SECTION. Sec. 78. A new section is added to chapter 18.53 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter and chapter 18.54 RCW.

NEW SECTION. Sec. 79. A new section is added to chapter 18.54 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter and chapter 18.53 RCW.

Sec. 80. Section 8, chapter 144, Laws of 1919 and RCW 18.53.030 are each amended to read as follows:

The ~~((director))~~ board may at ~~((his))~~ its discretion, issue a permit to practice optometry during the interim between examinations, to any person who has filed an application for examination which has been accepted by ~~((said director))~~ the board as admitting the applicant to the next examination. Such permit shall be valid only until the date of the next examination and shall not be issued sooner than thirty days following any regular examination, and no permit shall be issued to any person who has failed before the ~~((director))~~ board, nor where a certificate has been revoked.

Sec. 81. Section 11, chapter 144, Laws of 1919 as amended by section 6, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.100 are each amended to read as follows:

~~((The optometry board may under the provisions of the administrative procedure act, chapter 34.04 RCW, upon presentation of evidence and information by the director, revoke the license of any optometrist for any of the following causes:~~

~~(1) Conviction of any crime involving moral turpitude; or~~

~~(2)) The following constitutes grounds for disciplinary action under chapter 18.130 RCW:~~

~~(1) Any form of fraud or deceit used in securing a license; or~~

~~((3)) (2) Any unprofessional conduct, of a nature likely to deceive or defraud the public; or~~

~~((4) The obtaining of any fee by fraud or misrepresentation; or~~

~~(5)) (3) The employing either directly or indirectly of any person or persons commonly known as "cappers" or "steerers" to obtain business; or~~

~~((6)) (4) To employ any person to solicit from house to house, or to personally solicit from house to house; or~~

~~((7) The employment of any unlicensed person to perform the work covered by this chapter; or~~

~~(8)) (5) Advertisement in any way in which untruthful, improbable or impossible statements are made regarding treatments, cures or values; or~~

~~((9)) (6) The use of the term "eye specialist" in connection with the name of such optometrist; or~~

~~((10) For habits of intemperance or habitual drunkenness, addiction to the drug habit, in a manner likely to destroy the accuracy of the work of an optometrist; or~~

~~(11) Affliction with a contagious or infectious disease, or one which is likely to destroy the accuracy of the work of the afflicted; or~~

~~(12) For any cause for which the director or board of optometry might refuse to admit a candidate to his examination; or~~

~~(13)) (7) Inability to demonstrate, in a manner satisfactory to the director or the board of optometry, their practical ability to perform any function set forth in RCW 18.53.010 which they utilize in their practice(;~~
or

~~(14) For the violation of any provision of this chapter or any rules and regulations of the director or the optometry board)).~~

Sec. 82. Section 7, chapter 144, Laws of 1919 as last amended by section 3, chapter 58, Laws of 1981 and RCW 18.53.140 are each amended to read as follows:

It shall be unlawful for any person:

(1) To sell or barter, or offer to sell or barter any license issued by the director; or

(2) To purchase or procure by barter any license with the intent to use the same as evidence of the holder's qualification to practice optometry; or

(3) To alter with fraudulent intent in any material regard such license;

or

(4) To use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license; or

(5) To practice optometry under a false or assumed name, or as a representative or agent of any person, firm or corporation with which the licensee has no connection: PROVIDED, Nothing in this chapter nor in the optometry law shall make it unlawful for any lawfully licensed optometrist or association of lawfully licensed optometrists to practice optometry under the name of any lawfully licensed optometrist who may transfer by inheritance or otherwise the right to use such name; or

~~(6) ((To wilfully make any false statements in material regard in an application for an examination before the director, or for a license; or~~

~~(7)))~~ To practice optometry in this state either for himself or any other individual, corporation, partnership, group, public or private entity, or any member of the licensed healing arts without having at the time of so doing a valid license issued by the director of licensing; or

~~((8)))~~ (7) To in any manner barter or give away as premiums either on his own account or as agent or representative for any other purpose, firm or corporation, any eyeglasses, spectacles, lenses or frames; or

~~((9)))~~ (8) To use drugs in the examination of eyes except diagnostic agents, topically applied, known generally as cycloplegics, mydriatics, topical anesthetics, dyes such as florescein, and for emergency use only, miotics, which legend drugs a certified optometrist is authorized to purchase, possess and administer; or

~~((10)))~~ (9) To use advertising whether printed, radio, display, or of any other nature, which is misleading or inaccurate in any material particular, nor shall any such person in any way misrepresent any goods or services (including but without limitation, its use, trademark, grade, quality, size, origin, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted; or

~~((11)))~~ (10) To advertise the "free examination of eyes," "free consultation," "consultation without obligation," "free advice," or any words or phrases of similar import which convey the impression to the public that eyes are examined free or of a character tending to deceive or mislead the public, or in the nature of "bait advertising;" or

~~((12)))~~ (11) To use an advertisement of a frame or mounting which is not truthful in describing the frame or mounting and all its component

parts. Or advertise a frame or mounting at a price, unless it shall be depicted in the advertisement without lenses inserted, and in addition the advertisement must contain a statement immediately following, or adjacent to the advertised price, that the price is for frame or mounting only, and does not include lenses, eye examination and professional services, which statement shall appear in type as large as that used for the price, or advertise lenses or complete glasses, viz.: frame or mounting with lenses included, at a price either alone or in conjunction with professional services; or

~~((+3))~~ (12) To use advertising, whether printed, radio, display, or of any other nature, which inaccurately lays claim to a policy or continuing practice of generally underselling competitors; or

~~((+4))~~ (13) To use advertising, whether printed, radio, display or of any other nature which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services; or

~~((+5))~~ (14) To use advertising whether printed, radio, display, or of any other nature, which states any definite amount of money as "down payment" and any definite amount of money as a subsequent payment, be it daily, weekly, monthly, or at the end of any period of time ~~(; or~~

~~(16) To violate any provision of this chapter or any rules and regulations promulgated thereunder).~~

Sec. 83. Section 22, chapter 144, Laws of 1919 and RCW 18.53.150 are each amended to read as follows:

Any person violating ~~((any provision of RCW 18.53.010 through 18.53.150 shall, upon conviction thereof, be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned not less than thirty days nor more than six months, or both))~~ this chapter is guilty of a misdemeanor.

Sec. 84. Section 7, chapter 25, Laws of 1963 as last amended by section 49, chapter 158, Laws of 1979 and RCW 18.54.070 are each amended to read as follows:

The board has the following powers and duties:

(1) The board shall prepare the necessary lists of examination questions, conduct examinations, either written or oral or partly written and partly oral, and shall certify to the director of licensing all lists, signed by all members conducting the examination, of all applicants for licenses who have successfully passed the examination and a separate list of all applicants for licenses who have failed to pass the examination, together with a copy of all examination questions used, and the written answers to questions on written examinations submitted by each of the applicants.

(2) ~~((The director shall investigate all complaints and charges of unprofessional conduct against any licensed optometrist, and the board shall hold hearings to determine whether or not such charges are founded:~~

~~(3) The board shall take disciplinary action against any optometrist whom the board finds guilty of unprofessional conduct, and may, under appropriate circumstances, order the revocation or suspension of a license to practice optometry by filing a copy of its findings and conclusions with the director of licensing.~~

~~(4) The board may employ stenographic and clerical help, and such other assistance as may be necessary to enforce the provisions of this chapter.~~

(5)) The board shall adopt rules and regulations to promote safety, protection and the welfare of the public, to carry out the purposes of this chapter, to aid the board in the performance of its powers and duties, and to govern the practice of optometry.

NEW SECTION. Sec. 85. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 144, Laws of 1919, section 3, chapter 69, Laws of 1975 1st ex. sess., section 46, chapter 158, Laws of 1979 and RCW 18.53.020; and

(2) Section 13, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.155.

NEW SECTION. Sec. 86. The repeal of RCW 18.53.020 and the amendment of RCW 18.53.100 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

NEW SECTION. Sec. 87. The following acts or parts of acts are each repealed:

(1) Section 38, chapter 279, Laws of 1984 and RCW 18.54.075;

(2) Section 8, chapter 25, Laws of 1963, section 11, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.54.080;

(3) Section 10, chapter 25, Laws of 1963 and RCW 18.54.100;

(4) Section 11, chapter 25, Laws of 1963 and RCW 18.54.110; and

(5) Section 12, chapter 25, Laws of 1963 and RCW 18.54.120.

NEW SECTION. Sec. 88. The repeal of RCW 18.54.080 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XII OCULARISTS

NEW SECTION. Sec. 89. A new section is added to chapter 18.55 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

NEW SECTION. Sec. 90. The following acts or parts of acts are each repealed:

- (1) Section 39, chapter 279, Laws of 1984 and RCW 18.55.065;
- (2) Section 6, chapter 101, Laws of 1980 and RCW 18.55.070;
- (3) Section 8, chapter 101, Laws of 1980 and RCW 18.55.080;
- (4) Section 9, chapter 101, Laws of 1980 and RCW 18.55.090; and
- (5) Section 10, chapter 101, Laws of 1980 and RCW 18.55.100.

NEW SECTION. Sec. 91. The repeal of RCW 18.55.070 and 18.55.090 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XIII OSTEOPATHY

NEW SECTION. Sec. 92. A new section is added to chapter 18.57 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

NEW SECTION. Sec. 93. A new section is added to chapter 18.57A RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the approval or disapproval of applications and the discipline of persons authorized to practice under this chapter.

Sec. 94. Section 3, chapter 117, Laws of 1979 and RCW 18.57.005 are each amended to read as follows:

The board shall have the following powers and duties:

(1) To administer examinations to applicants for licensure under this chapter;

~~(2) ((To grant, deny, restrict, suspend, or revoke licenses to practice under this chapter;~~

~~(3)) To make such rules and regulations as are not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter;~~

~~((4)) (3) To establish and administer requirements for continuing professional education as may be necessary or proper to insure the public health and safety as a prerequisite to granting and renewing licenses under this chapter: PROVIDED, That such rules shall not require a licensee under this chapter to engage in continuing education related to or provided by any specific branch, school, or philosophy of medical practice or its political and/or professional organizations, associations, or societies;~~

~~((5) To establish rules and regulations fixing standards of professional conduct;~~

~~(6) To adopt such rules as are necessary to establish, administer, and/or delegate a review of each malpractice action filed against a person~~

~~licensed to practice under this chapter. On the basis of such review, where in its sole discretion, it deems it necessary, take such action as required to protect the public health and safety, including restriction, suspension, or revocation of a license to practice under this chapter; and~~

~~(7))~~ (4) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein.

Sec. 95. Section 9, chapter 30, Laws of 1971 ex. sess. and RCW 18.57A.030 are each amended to read as follows:

An osteopathic physician's assistant as defined in this chapter may practice osteopathic medicine in this state only after authorization by the board and only to the extent permitted by the board. An osteopathic physician's assistant shall be subject to discipline by the board under ~~((RCW 18.57.170))~~ the provisions of chapter 18.130 RCW.

Sec. 96. Section 10, chapter 30, Laws of 1971 ex. sess. as amended by section 60, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.57A.040 are each amended to read as follows:

No osteopathic physician practicing in this state shall utilize the services of an osteopathic physician's assistant without the approval of the board.

Any osteopathic physician licensed in this state may apply to the board for permission to use the services of an osteopathic physician's assistant. The application shall be accompanied by a fee determined by the director as provided in RCW ~~((43.24.085 as now or hereafter amended))~~ 43.24.086, shall detail the manner and extent to which the physician's assistant would be used and supervised, shall detail the education, training, and experience of the osteopathic physician's assistant and shall provide such other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of the osteopathic physician's assistant, 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 fee determined by the director as provided in RCW ~~((43.24.085 as now or hereafter amended))~~ 43.24.086. Whenever it appears to the board that an osteopathic physician's 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 an approval, a hearing shall be conducted in accordance with ~~((RCW 18.57.180))~~ chapter 34.04 RCW.

Sec. 97. Section 11, chapter 30, Laws of 1971 ex. sess. and RCW 18.57A.050 are each amended to read as follows:

No osteopathic physician who uses the services of an osteopathic physician's assistant in accordance with and within the terms of any permission granted by the ~~((medical examining))~~ board shall be considered as aiding and abetting an unlicensed person to practice osteopathic medicine within the meaning of RCW 18.57.080 ~~((or 18.57.030))~~: PROVIDED, HOWEVER, That any physician shall retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in RCW 18.57.130 when performed by a physician's assistant in his employ.

NEW SECTION. Sec. 98. The following acts or parts of acts are each repealed:

- (1) Section 40, chapter 279, Laws of 1984 and RCW 18.57.009;
- (2) Section 14, chapter 4, Laws of 1919, section 16, chapter 199, Laws of 1969 ex. sess. and RCW 18.57.030;
- (3) Section 11, chapter 4, Laws of 1919, section 2, chapter 142, Laws of 1963, section 16, chapter 117, Laws of 1979 and RCW 18.57.170;
- (4) Section 4, chapter 117, Laws of 1979 and RCW 18.57.173;
- (5) Section 5, chapter 117, Laws of 1979 and RCW 18.57.175;
- (6) Section 6, chapter 117, Laws of 1979 and RCW 18.57.177;
- (7) Section 7, chapter 117, Laws of 1979 and RCW 18.57.181;
- (8) Section 8, chapter 117, Laws of 1979 and RCW 18.57.185;
- (9) Section 9, chapter 117, Laws of 1979 and RCW 18.57.195; and
- (10) Section 10, chapter 117, Laws of 1979 and RCW 18.57.205.

NEW SECTION. Sec. 99. The repeal of RCW 18.57.030, 18.57.170, 18.57.175, and 18.57.185 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XIV OCCUPATIONAL THERAPISTS

NEW SECTION. Sec. 100. A new section is added to chapter 18.59 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 101. Section 11, chapter 9, Laws of 1984 and RCW 18.59.100 are each amended to read as follows:

~~((1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions if the licensee or applicant for a license has been guilty of conduct which has endangered the health, welfare, or safety of the public. Such conduct includes:~~

~~(a) Obtaining a license by means of fraud or misrepresentation or concealment of material facts;~~

~~(b) Being guilty of unprofessional conduct or gross incompetence as defined by the rules of the board, or violating the code of ethics adopted and published by the board, which shall require that))~~ Δn occupational therapist

shall, after evaluating a patient and if the case is a medical one, refer the case to a physician for appropriate medical direction if such direction is lacking. Treatment by an occupational therapist of such a medical case may take place only upon the referral of a physician or podiatrist licensed to practice medicine in this state(;

~~(c) Being convicted of a crime of moral turpitude or a felony which relates to the profession of occupational therapy;~~

~~(d) Violating an order or rule of the board; or~~

~~(e) Violating any provision of this chapter.~~

~~(2) Such denial, refusal to renew, suspension, revocation, or imposition of probationary conditions on a licensee may be ordered by the board in compliance with chapter 34.04 RCW. One year from the date of revocation of a license, application may be made to the board for reinstatement. The board has discretion to accept or reject an application for reinstatement and may, but is not required to, hold a hearing to consider the reinstatement)).~~

Sec. 102. Section 14, chapter 9, Laws of 1984 and RCW 18.59.130 are each amended to read as follows:

(1) The board shall administer, coordinate, and enforce this chapter, evaluate qualifications under this chapter, and provide for supervision of examinations of applicants for licensure under this chapter. ~~((The board may issue subpoenas, examine witnesses, and administer oaths and may investigate allegations of practices violating this chapter.))~~

(2) The board ~~((shall adopt rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state in accordance with chapter 34.04 RCW.~~

~~(3) The board shall conduct such hearings and keep such records and minutes as are necessary to carry out its functions. The board shall provide at least thirty days' notice in writing to the appropriate persons of the times and places of all hearings authorized under this chapter in such a manner and at such times as it may determine by its rules))~~ may adopt such rules as it deems necessary in the administration of this chapter.

NEW SECTION. Sec. 103. The following acts or parts of acts are each repealed:

(1) Section 4, chapter 9, Laws of 1984 and RCW 18.59.030;

(2) Section 17, chapter 9, Laws of 1984 and RCW 18.59.140; and

(3) Section 16, chapter 9, Laws of 1984 and RCW 18.59.200.

NEW SECTION. Sec. 104. The repeal of RCW 18.59.030 and 18.59.200 and the amendment of RCW 18.59.100 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XV
PHYSICIANS AND PHYSICIANS' ASSISTANTS

NEW SECTION. Sec. 105. A new section is added to chapter 18.71 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses under this chapter.

NEW SECTION. Sec. 106. A new section is added to chapter 18.71A RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

NEW SECTION. Sec. 107. A new section is added to chapter 18.72 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the discipline of licensees under this chapter.

Sec. 108. Section 1, chapter 2, Laws of 1983 and RCW 18.71.030 are each amended to read as follows:

Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter 28A.31 RCW, as now or hereafter amended;

(4) The practice of dentistry, osteopathy, osteopathy and surgery, nursing, chiropractic, podiatry, optometry, drugless therapeutics or any other healing art licensed under the methods or means permitted by such license;

(5) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration while such medical officer is engaged in the performance of the duties prescribed for him by the laws and regulations of the United States;

(6) The practice of medicine by any practitioner licensed by another state or territory in which he resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(7) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the board: PROVIDED, HOWEVER, That the performance of such services be only pursuant to a regular course of instruction or assignments from his instructor, or that such

services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(8) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state: **PROVIDED**, That the performance of such services shall be only pursuant to his duties as a trainee;

(9) The practice of medicine by a person who is regularly enrolled in a physician's assistant program approved by the board: **PROVIDED, HOWEVER**, That the performance of such services be only pursuant to a regular course of instruction in said program: **AND PROVIDED FURTHER**, That such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(10) The practice of medicine by a registered physician's assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(11) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(12) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the board of medical examiners: **PROVIDED**, That a dentist allowed to administer nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist: **AND PROVIDED FURTHER**, That the medical disciplinary board shall have jurisdiction to discipline a dentist practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to the provisions of chapter 18.72 RCW and chapter 18.130 RCW;

(13) Emergency lifesaving service rendered by a physician's trained mobile intravenous therapy technician, by a physician's trained mobile airway management technician, or by a physician's trained mobile intensive care paramedic, as defined in RCW 18.71.200, if the emergency lifesaving service is rendered under the responsible supervision and control of a licensed physician.

Sec. 109. Section 3, chapter 60, Laws of 1957 as last amended by section 7, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.050 are each amended to read as follows:

(1) Each applicant who has graduated from a school of medicine located in any state, territory or possession of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the board on a form prepared by the director with the approval of the board. Each applicant shall furnish proof satisfactory to the board of the following:

~~((1))~~ (a) That ~~((he))~~ the applicant has attended and graduated from a school of medicine approved by the board;

~~((2))~~ (b) That ~~((he))~~ the applicant has completed one year of post-graduate medical training in a program acceptable to the board;

~~((3))~~ (c) That ~~((he))~~ the applicant is of good moral character; and

~~((4))~~ (d) That ~~((he))~~ the applicant is physically and mentally capable of safely carrying on the practice of medicine. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice medicine;

~~(5) That his license to practice medicine is not at the time of the application revoked or suspended by any licensing agency and that he has not been guilty of any conduct which would constitute grounds for refusal, revocation or suspension of such license under the laws of the state of Washington).~~

(2) Nothing in this section shall be construed as prohibiting the board from requiring such additional information from applicants as it deems necessary. The issuance and denial of licenses are subject to chapter 18.130 RCW, the uniform disciplinary act.

Sec. 110. Section 1, chapter 189, Laws of 1959 as last amended by section 13, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.095 are each amended to read as follows:

The board may, without examination, issue a limited license to persons who possess the qualifications set forth herein:

(1) The board may, upon the written request of the secretary of the department of social and health services, issue a limited license to practice medicine in this state to persons who have been accepted for employment by the department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with patients, residents, or inmates of the state institutions under the control and supervision of the secretary of the department of social and health services.

(2) The board may issue a limited license to practice medicine in this state to persons who have been accepted for employment by a county or city health department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with his or her duties in employment with the city or county health department.

(3) Upon receipt of a completed application showing that the applicant meets all of the requirements for licensure set forth in RCW 18.71.050 except for completion of one year of postgraduate medical training, and that the applicant has been appointed as a resident physician in a program of postgraduate clinical training in this state approved by the board, the board may issue a limited license to a resident physician. Such license shall permit the resident physician to practice medicine only in connection with his duties as a resident physician and shall not authorize him to engage in any other form of practice. Each resident physician shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

All persons licensed under this section shall be subject to the jurisdiction of the medical disciplinary board to the same extent as other members of the medical profession, in accordance with chapters 18.72 and 18.130 RCW (~~and in addition, the limited license to practice medicine in the state of Washington may be revoked by the medical disciplinary board after a hearing has been held in accordance with the provisions set forth in chapter 18.72 RCW, and determination made by the medical disciplinary board that such licensee has violated the limitations set forth herein~~).

Persons applying for licensure pursuant to this section shall pay an application fee (~~of twenty-five dollars and, in the event the license applied for is issued, a license fee at the rate provided for renewals of licenses generally~~) as determined by the director. Licenses issued hereunder may be renewed annually pursuant to the provisions of RCW 18.71.080; PROVIDED, That a limited license for a resident physician may not be renewed until such resident physician has successfully completed either all parts of the examination given by the national board of medical examiners or an equivalent examination approved by the board. Interim approval may be granted until the result of such examination becomes available. Any person who obtains a limited license pursuant to this section may, without an additional application fee, apply for licensure under this chapter.

Sec. 111. Section 2, chapter 305, Laws of 1971 ex. sess. as last amended by section 1, chapter 112, Laws of 1983 and RCW 18.71.200 are each amended to read as follows:

(1) As used in (~~RCW 18.71.020 as now or hereafter amended~~) this chapter, a "physician's trained mobile intravenous therapy technician" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained under the supervision of an approved medical program director to administer intravenous solutions under written or oral authorization of an approved licensed physician; and

(c) Has been examined and certified as a physician's trained mobile intravenous therapy technician by the University of Washington's school of medicine or the department of social and health services;

(2) As used in (~~RCW 18.71.020 as now or hereafter amended~~) this chapter, a "physician's trained mobile airway management technician" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained under the supervision of an approved medical program director to perform endotracheal airway management and other authorized aids to ventilation under written or oral authorization of an approved licensed physician; and

(c) Has been examined and certified as a physician's trained mobile airway management technician by the University of Washington's school of medicine or the department of social and health services; and

(3) As used in (~~RCW 18.71.020 as now or hereafter amended~~) this chapter, a "physician's trained mobile intensive care paramedic" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained under the supervision of an approved medical program director:

(i) To carry out all phases of advanced cardiac life support;

(ii) To administer drugs under written or oral authorization of an approved licensed physician; and

(iii) To administer intravenous solutions under written or oral authorization of an approved licensed physician; and

(iv) To perform endotracheal airway management and other authorized aids to ventilation; and

(c) Has been examined and certified as a physician's trained mobile intensive care paramedic by the University of Washington's school of medicine or by the department of social and health services.

Sec. 112. Section 2, chapter 110, Laws of 1973 1st ex. sess. as amended by section 57, chapter 158, Laws of 1979 and RCW 18.71.230 are each amended to read as follows:

A right to practice medicine and surgery by (~~a Canadian physician~~) an individual in this state pursuant to RCW 18.71.030 (5) through (12) shall be (~~revocable~~) subject to discipline by order of the (~~director of licensing~~) board upon a finding by the (~~director~~) board of an act of unprofessional conduct as defined in RCW (~~18.72.030~~) 18.130.180 or that the individual is unable to practice with reasonable skill or safety due to a mental or physical condition as described in RCW 18.130.170. Such physician shall have the same rights of notice, hearing and judicial review as

provided licensed physicians generally pursuant to chapters 18.72 and 18-130 RCW.

Sec. 113. Section 4, chapter 30, Laws of 1971 ex. sess. as last amended by section 64, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.71A.040 are each amended to read as follows:

No physician practicing in this state shall utilize the services of a physician's assistant without the approval of the board.

Any physician licensed in this state may apply to the board for permission to use the services of a physician's assistant. The application shall be accompanied by a fee determined by the director as provided in RCW (~~((43.24.085 as now or hereafter amended))~~) 43.24.086, shall detail the manner and extent to which the physician's assistant would be used and supervised, shall detail the education, training, and experience of the physician's assistant and shall provide such other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of the physician's assistant, 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 fee determined by the director as provided in RCW (~~((43.24.085 as now or hereafter amended))~~) 43.24.086. Whenever it appears to the board that a physician's 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 an approval, a hearing shall be conducted in accordance with (~~((RCW 18.71.140))~~) chapter 18.130 RCW.

Sec. 114. Section 5, chapter 30, Laws of 1971 ex. sess. and RCW 18.71A.050 are each amended to read as follows:

No physician who uses the services of a physician's assistant in accordance with and within the terms of any permission granted by the medical examining board shall be considered as aiding and abetting an unlicensed person to practice medicine (~~((within the meaning of RCW 18.71.020 or 18.72.030(13))~~): PROVIDED, HOWEVER, That any physician shall retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in RCW 18.71.010 when performed by a physician's assistant in his employ.

Sec. 115. Section 2, chapter 202, Laws of 1955 and RCW 18.72.020 are each amended to read as follows:

Terms used in this chapter and in RCW 18.71.040(~~(;)~~) and 18.71.080(~~(; 18.71.120, 18.71.140 and 18.71.180 shall))~~) have the meaning set forth in this section unless the context clearly indicates otherwise:

- (1) "Board" means the medical disciplinary board.

(2) "License" means a certificate or license to practice medicine and surgery in this state as provided for in RCW 18.71.010 and 18.71.050.

(3) "Members" means members of the medical disciplinary board.

(4) "Secretary" means the secretary of the medical disciplinary board.

Sec. 116. Section 15, chapter 202, Laws of 1955 as last amended by section 5, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.150 are each amended to read as follows:

The board ~~((shall have the following powers and duties:~~

~~(1) To)) may adopt, amend, and rescind such rules and regulations as it deems necessary to carry out the provisions of this chapter((;~~

~~(2) To investigate all complaints or reports of unprofessional conduct against any holder of a license and to hold hearings to determine if unprofessional conduct has been committed;~~

~~(3) To issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter;~~

~~(4) To take or cause depositions to be taken as needed in any investigation or investigative or disciplinary hearing or proceeding;~~

~~(5) To investigate complaints or reports of malpractice and unsafe conditions and practices, to analyze equipment, procedures, and training, in such cases, and to direct corrective action;~~

~~(6) To take emergency action ordering summary suspension of the license of a physician, or restricting or limiting the licensed physician's practice pending proceedings by the board, as authorized by RCW 34.04.170;~~

~~(7) To appoint a hearing officer to conduct hearings subject to final determination by the board;~~

~~(8) To enter into contracts for professional services determined by the board to be necessary;~~

~~(9) To contract with physicians or other persons or organizations to provide services necessary for the monitoring and supervising of physicians and surgeons who are placed on probation, or whose professional activities are restricted, or who are for any authorized purpose subject to being monitored by the board; and~~

~~(10) The board shall be subject to the provisions of chapter 34.04 RCW)).~~

Sec. 117. Section 15, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.265 are each amended to read as follows:

(1) ~~((The board may adopt regulations requiring any person, including, but not limited to, corporations, hospitals, organizations, and federal, state, or local governmental agencies, to report to the board any: Conviction, determination, or finding that a licensed physician has committed unprofessional conduct as defined by RCW 18.72.030 as now or hereafter amended, or to report information which indicates that a licensed physician may not be able to practice medicine with reasonable skill and safety to patients as the result of any mental or physical condition:~~

~~(2))~~ The contents of any report file under RCW 18.130.070 shall be confidential and exempt from public disclosure pursuant to chapter 42.17 RCW, except that it may be reviewed (a) by the licensee involved or his counsel or authorized representative who may submit any additional exculpatory or explanatory statements or other information, which statements or other information shall be included in the file, or (b) by a representative of the medical disciplinary board, or investigator thereof, who has been assigned to review the activities of a licensed physician.

~~((3))~~ Upon a determination that a report is without merit, the board's records may be purged of information relating to the report.

~~((4))~~ If any person contumaciously refuses to furnish a required report, the board may petition the superior court of any county in which said person resides or is found, and said court shall issue to such person an order to furnish the required report. Any failure to obey such order shall be punished by the court as a civil contempt may be punished.

~~(5))~~ (2) Every individual, medical association, medical society, hospital, medical service bureau, health insurance carrier or agent, professional liability insurance carrier, professional standards review organization, and agency of the federal, state, or local government shall be immune from civil liability, whether direct or derivative, for providing information to the board subsequent to ~~((the regulations outlined in [sub]section (1) of this section))~~ RCW 18.130.070, or for which an individual health care provider has immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260, as now or hereafter amended.

Sec. 118. Section 2, chapter 208, Laws of 1973 1st ex. sess. and RCW 18.73.020 are each amended to read as follows:

The legislature further declares its intention to supersede all ordinances, regulations, and requirements promulgated by counties, cities and other political subdivisions of the state of Washington, insofar as they may provide for the regulation of emergency medical care, first aid, and ambulance services which do not exceed the provisions of this chapter; except that (1) license fees established in this chapter shall supersede all license fees of counties, cities and other political subdivisions of this state; and, (2) nothing in this chapter shall alter the provisions of RCW ~~((18.71.020;))~~ 18.71.200, 18.71.210 and 18.71.220.

NEW SECTION. Sec. 119. The following acts or parts of acts are each repealed:

(1) Section 41, chapter 279, Laws of 1984 and RCW 18.71.018;

(2) Section 14, chapter 192, Laws of 1909, section 8, chapter 134, Laws of 1919, section 3, chapter 284, Laws of 1961, section 18, chapter 199, Laws of 1969 ex. sess., section 1, chapter 305, Laws of 1971 ex. sess., section 3, chapter 171, Laws of 1975 1st ex. sess., section 1, chapter 55, Laws of 1977 and RCW 18.71.020;

(3) Section 10, chapter 284, Laws of 1961, section 4, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.025;

(4) Section 38, chapter 202, Laws of 1955, section 12, chapter 284, Laws of 1961 and RCW 18.71.120;

(5) Section 40, chapter 202, Laws of 1955 and RCW 18.71.140;

(6) Section 17, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.145;

(7) Section 18, chapter 171, Laws of 1975 1st ex. sess. and RCW 18.71.165; and

(8) Section 44, chapter 202, Laws of 1955, section 14, chapter 171, Laws of 1975 1st ex. sess., section 56, chapter 158, Laws of 1979 and RCW 18.71.180.

NEW SECTION. Sec. 120. The repeal of RCW 18.71.020 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

NEW SECTION. Sec. 121. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 202, Laws of 1955, section 1, chapter 142, Laws of 1963, section 1, chapter 61, Laws of 1975, section 1, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.030;

(2) Section 9, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.135;

(3) Section 14, chapter 202, Laws of 1955 and RCW 18.72.140;

(4) Section 42, chapter 279, Laws of 1984 and RCW 18.72.153;

(5) Section 16, chapter 202, Laws of 1955, section 8, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.160;

(6) Section 17, chapter 202, Laws of 1955, section 10, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.170;

(7) Section 2, chapter 61, Laws of 1975 and RCW 18.72.175;

(8) Section 18, chapter 202, Laws of 1955 and RCW 18.72.180;

(9) Section 7, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.201;

(10) Section 23, chapter 202, Laws of 1955, section 11, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.230;

(11) Section 24, chapter 202, Laws of 1955, section 12, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.240;

(12) Section 13, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.245;

(13) Section 25, chapter 202, Laws of 1955, section 1, chapter 58, Laws of 1969, section 60, chapter 158, Laws of 1979, section 14, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.250;

(14) Section 26, chapter 202, Laws of 1955 and RCW 18.72.260;

(15) Section 27, chapter 202, Laws of 1955 and RCW 18.72.270;

(16) Section 3, chapter 61, Laws of 1975, section 16, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.275;

(17) Section 28, chapter 202, Laws of 1955 and RCW 18.72.280;

(18) Section 29, chapter 202, Laws of 1955 and RCW 18.72.290;

(19) Section 30, chapter 202, Laws of 1955 and RCW 18.72.300;

(20) Section 32, chapter 202, Laws of 1955 and RCW 18.72.320; and

(21) Section 33, chapter 202, Laws of 1955 and RCW 18.72.330.

NEW SECTION. Sec. 122. The repeal of RCW 18.72.030, 18.72.230, and 18.72.275 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XVI PHYSICAL THERAPY

NEW SECTION. Sec. 123. A new section is added to chapter 18.74 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 124. Section 4, chapter 116, Laws of 1983 and RCW 18.74.023 are each amended to read as follows:

The board has the following powers and duties:

(1) To administer examinations to applicants for a license under this chapter.

(2) To pass upon the qualifications of applicants for a license and to certify to the director duly qualified applicants.

(3) ~~((To approve, deny, restrict, suspend, or revoke authorization to practice under this chapter.~~

~~((4)))~~ (4) To make such rules not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter.

~~((5)))~~ (4) To establish and administer requirements for continuing professional education as may be necessary or proper to ensure the public health and safety and which may be a prerequisite to granting and renewing a license under this chapter.

~~((6) To establish rules fixing standards of professional conduct.~~

~~((7)))~~ (5) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein.

~~((8)))~~ (6) To adopt rules not inconsistent with the laws of this state, when it deems appropriate, in response to questions put to it by professional health associations, physical therapists, and consumers in this state concerning the authority of physical therapists to perform particular acts.

Sec. 125. Section 9, chapter 239, Laws of 1949 as last amended by section 18, chapter 116, Laws of 1983 and RCW 18.74.090 are each amended to read as follows:

A person who is not licensed with the director of licensing as a physical therapist under the requirements of this chapter shall not represent himself as being so licensed and shall not use in connection with his name the words or letters "P.T.", "R.P.T.", "L.P.T.", "physical therapy", "physiotherapy", "physical therapist" or "physiotherapist", or any other letters, words, signs, numbers, or insignia indicating or implying that he is a physical therapist. (~~Any person who practices or attempts to practice as or hold himself out as practicing as a physical therapist in this state without having at the time of so doing, a valid, unrevoked license as provided in this chapter, shall be guilty of a gross misdemeanor. PROVIDED, That~~) Nothing in this chapter prohibits any person licensed in this state under any other act from engaging in the practice for which he or she is licensed. It shall be the duty of the prosecuting attorney of each county to prosecute all cases involving a violation of this chapter arising within his county. The attorney general may assist in such prosecution and shall appear at all hearings when requested to do so by the board.

NEW SECTION. Sec. 126. The following acts or parts of acts are each repealed:

- (1) Section 43, chapter 279, Laws of 1984 and RCW 18.74.028;
- (2) Section 8, chapter 239, Laws of 1949, section 7, chapter 64, Laws of 1961, section 13, chapter 116, Laws of 1983 and RCW 18.74.080;
- (3) Section 15, chapter 116, Laws of 1983 and RCW 18.74.082;
- (4) Section 14, chapter 116, Laws of 1983 and RCW 18.74.084;
- (5) Section 16, chapter 116, Laws of 1983 and RCW 18.74.086;
- (6) Section 17, chapter 116, Laws of 1983 and RCW 18.74.088; and
- (7) Section 10, chapter 239, Laws of 1949, section 20, chapter 116, Laws of 1983 and RCW 18.74.100.

NEW SECTION. Sec. 127. The repeal of RCW 18.74.080, 18.74.082, and 18.74.100 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XVII PRACTICAL NURSES

NEW SECTION. Sec. 128. A new section is added to chapter 18.78 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 129. Section 5, chapter 222, Laws of 1949 as last amended by section 6, chapter 55, Laws of 1983 and RCW 18.78.050 are each amended to read as follows:

The board shall conduct examinations for all applicants for licensure under this chapter and shall certify qualified applicants to the department of licensing for licensing. The board shall also determine and formulate what

constitutes the curriculum for an approved practical nursing program preparing persons for licensure under this chapter. The board shall establish criteria for licensure by endorsement. ~~((The board or an administrative law judge appointed under chapter 34.12 RCW may conduct hearings for the suspension or revocation of licenses.))~~

The board shall adopt such rules as are necessary to fulfill the purposes of this chapter pursuant to chapter 34.04 RCW.

Sec. 130. Section 7, chapter 222, Laws of 1949 as amended by section 9, chapter 55, Laws of 1983 and RCW 18.78.070 are each amended to read as follows:

~~((The director may issue a license to practice as a licensed practical nurse without examination to any applicant who has been duly licensed as a licensed practical nurse by examination under the laws of another state.))~~
An applicant graduated from a nursing program outside the United States and licensed by a country outside the United States shall meet all qualifications required by this chapter and by the board and shall pass an examination to be determined by the board.

Sec. 131. Section 10, chapter 222, Laws of 1949 as last amended by section 10, chapter 55, Laws of 1983 and RCW 18.78.090 are each amended to read as follows:

Every licensed practical nurse in this state shall renew the license with the department of licensing and shall pay a fee determined by the director as provided in RCW ~~((43.24.085 as now or hereafter amended))~~ 43.24.086. Any failure to register and pay the renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor and upon payment to the state of a penalty fee determined by the director as provided in RCW ~~((43.24.085 as now or hereafter amended, together with all delinquent license renewal fees))~~ 43.24.086.

NEW SECTION. Sec. 132. The following acts or parts of acts are each repealed:

- (1) Section 44, chapter 279, Laws of 1984 and RCW 18.78.053;
- (2) Section 13, chapter 55, Laws of 1983 and RCW 18.78.135;
- (3) Section 14, chapter 55, Laws of 1983 and RCW 18.78.145;
- (4) Section 20, chapter 55, Laws of 1983 and RCW 18.78.155;
- (5) Section 18, chapter 55, Laws of 1983 and RCW 18.78.165;
- (6) Section 18, chapter 222, Laws of 1949, section 5, chapter 79, Laws of 1967, section 16, chapter 55, Laws of 1983 and RCW 18.78.170;
- (7) Section 7, chapter 79, Laws of 1967, section 17, chapter 55, Laws of 1983 and RCW 18.78.175; and
- (8) Section 8, chapter 222, Laws of 1949 (uncodified).

NEW SECTION. Sec. 133. The repeal of RCW 18.78.135 and 18.78.170 by this act shall not be construed as affecting any rights and duties

which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XVIII
PSYCHOLOGY

NEW SECTION. Sec. 134. Section 45, chapter 279, Laws of 1984 and RCW 18.83.053 are each repealed.

PART XIX
REGISTERED NURSES

NEW SECTION. Sec. 135. A new section is added to chapter 18.88 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 136. Section 27, chapter 202, Laws of 1949 as amended by section 26, chapter 133, Laws of 1973 and RCW 18.88.270 are each amended to read as follows:

It shall be a gross misdemeanor for any person to:

(1) Sell or fraudulently obtain or furnish any nursing diploma, license, record or registration, or aid or abet therein;

(2) Practice nursing as defined by this chapter under cover of any diploma, license, record or registration illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation or mistake of fact in a material regard; or

~~(3) ((Practice nursing as defined by this chapter, unless duly licensed to do so under the provisions of this chapter;~~

~~(4) Use in connection with his or her name any designation tending to imply that he or she is a registered, professional nurse unless duly licensed to practice under the provisions of this chapter;~~

~~(5) Practice as a registered nurse during the time his or her license is issued under the provisions of this chapter shall be suspended or revoked; and~~

~~(6)) Otherwise violate any of the provisions of this chapter.~~

NEW SECTION. Sec. 137. The following acts or parts of acts are each repealed:

(1) Section 46, chapter 279, Laws of 1984 and RCW 18.88.085;

(2) Section 21, chapter 202, Laws of 1949 and RCW 18.88.210;

(3) Section 23, chapter 202, Laws of 1949, section 21, chapter 133, Laws of 1973 and RCW 18.88.230;

(4) Section 24, chapter 202, Laws of 1949, section 22, chapter 133, Laws of 1973 and RCW 18.88.240;

(5) Section 25, chapter 202, Laws of 1949, section 23, chapter 133, Laws of 1973 and RCW 18.88.250;

(6) Section 26, chapter 202, Laws of 1949, section 24, chapter 133, Laws of 1973 and RCW 18.88.260; and

(7) Section 15, chapter 288, Laws of 1961, section 25, chapter 133, Laws of 1973 and RCW 18.88.265.

NEW SECTION. Sec. 138. The repeal of RCW 18.88.230 and the amendment of RCW 18.88.270 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XX VETERINARY MEDICINE

NEW SECTION. Sec. 139. A new section is added to chapter 18.92 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

Sec. 140. Section 4, chapter 71, Laws of 1941 as last amended by section 2, chapter 102, Laws of 1983 and RCW 18.92.030 are each amended to read as follows:

It shall be the duty of the board to prepare examination questions, conduct examinations, and grade the answers of applicants. (~~The board shall supervise the conduct of those practicing veterinary medicine, surgery, and dentistry and shall make such recommendations as it deems necessary to the director in regard to the granting, suspension, or revocation of licenses. It shall be the duty of the board to adopt a code of professional conduct for the practice of the veterinary profession in this state.~~) The board, pursuant to chapter 34.04 RCW, shall have the power to adopt such rules and regulations as may be necessary to effectuate the purposes of this chapter including the performance of the duties and responsibilities of animal technicians: PROVIDED, HOWEVER, That such rules are adopted in the interest of good veterinary health care delivery to the consuming public, and do not prevent animal technicians from inoculating an animal. The board shall further have the power to adopt, by reasonable rules and regulations, standards prescribing requirements for veterinary medical facilities and to fix minimum standards of continuing veterinary medical education.

The department shall be the official office of record.

(~~The board shall have the power to conduct all hearings pertaining to violations of this chapter and may impose appropriate sanctions on licensees or registrants following a hearing. The hearings may be conducted by an administrative law judge appointed under chapter 34.12 RCW.~~)

Sec. 141. Section 6, chapter 71, Laws of 1941 as last amended by section 3, chapter 134, Laws of 1982 and RCW 18.92.070 are each amended to read as follows:

No person, unless registered or licensed to practice veterinary medicine, surgery, and dentistry in this state at the time this chapter shall become operative, shall begin the practice of veterinary medicine, surgery and dentistry without first applying for and obtaining a license for such purpose

from the director. In order to procure a license to practice veterinary medicine, surgery, and dentistry in the state of Washington, the applicant for such license shall file his or her application at least sixty days prior to date of examination upon a form furnished by the director of licensing, which, in addition to the fee provided by this chapter, shall be accompanied by satisfactory evidence that he or she is at least eighteen years of age and of good moral character, and by official transcripts or other evidence of graduation from a veterinary college satisfactory to and approved by the board. Said application shall be signed by the applicant and sworn to by him or her before some person authorized to administer oaths. When such application and the accompanying evidence are found satisfactory, the director shall notify the applicant to appear before the board for the next examination(~~(: PROVIDED, HOWEVER, That the director of licensing must deny the application of every applicant who has been guilty of unprofessional conduct within the two years immediately preceding date of application for license)~~). In addition, applicants shall be subject to grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his or her educational program as determined by the board, in a veterinary college recognized by the board, to take the examination or any part thereof prior to satisfying the requirements for application for a license: PROVIDED HOWEVER, That no license shall be issued to such applicant until such requirements are satisfied.

Sec. 142. Section 11, chapter 124, Laws of 1907 as last amended by section 8, chapter 50, Laws of 1967 ex. sess. and RCW 18.92.120 are each amended to read as follows:

Any person who shall make application for examination, as provided by RCW 18.92.070, and who has not previously failed to pass the veterinary examination, and whose application is found satisfactory by the director, may be given a temporary certificate to practice veterinary medicine, surgery and dentistry valid only until the results of the next examination for licenses are available. In addition, applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW. No more than one temporary certificate may be issued to any applicant. Such permittee shall be employed by a licensed veterinary practitioner or by the state of Washington.

Sec. 143. Section 6, chapter 44, Laws of 1974 ex. sess. as amended by section 5, chapter 102, Laws of 1983 and RCW 18.92.125 are each amended to read as follows:

No veterinarian who uses the services of an animal technician shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine (~~(within the meaning of RCW 18.92.160)~~). A veterinarian

shall retain professional and personal responsibility for any act which constitutes the practice of veterinary medicine as defined in this chapter when performed by an animal technician in his employ.

NEW SECTION. Sec. 144. The following acts or parts of acts are each repealed:

- (1) Section 3, chapter 102, Laws of 1983 and RCW 18.92.033;
- (2) Section 47, chapter 279, Laws of 1984 and RCW 18.92.045;
- (3) Section 2, chapter 71, Laws of 1941 and RCW 18.92.050;
- (4) Section 13, chapter 71, Laws of 1941, section 1, chapter 157, Laws of 1961, section 10, chapter 50, Laws of 1967 ex. sess., section 7, chapter 44, Laws of 1974 ex. sess., section 8, chapter 102, Laws of 1983 and RCW 18.92.160;
- (5) Section 14, chapter 71, Laws of 1941, section 11, chapter 92, Laws of 1959, section 11, chapter 50, Laws of 1967 ex. sess., section 24, chapter 67, Laws of 1981, section 9, chapter 102, Laws of 1983 and RCW 18.92.180;
- (6) Section 15, chapter 71, Laws of 1941, section 63, chapter 81, Laws of 1971 and RCW 18.92.210;
- (7) Section 22, chapter 71, Laws of 1941 and RCW 18.92.220; and
- (8) Section 14, chapter 92, Laws of 1959 and RCW 18.92.235.

NEW SECTION. Sec. 145. The repeal of RCW 18.92.050, 18.92.160, and 18.92.180 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XXI MASSAGE OPERATORS

NEW SECTION. Sec. 146. A new section is added to chapter 18.108 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

NEW SECTION. Sec. 147. The following acts or parts of acts are each repealed:

- (1) Section 48, chapter 279, Laws of 1984 and RCW (1) Section 48, chapter 279, Laws of 1984 and RCW 18.108.075;
- (2) Section 9, chapter 280, Laws of 1975 1st ex. sess. and RCW 18.108.080; and
- (3) Section 18, chapter 280, Laws of 1975 1st ex. sess. and RCW 18.108.170.

NEW SECTION. Sec. 148. The repeal of RCW 18.108.080 and 18.108.170 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XXII
MISCELLANEOUS

Sec. 149. Section 43.24.110, chapter 8, Laws of 1965 as last amended by section 60, chapter 279, Laws of 1984 and section 79, chapter 287, Laws of 1984 and RCW 43.24.110 are each reenacted and amended to read as follows:

Whenever there is filed in a matter under the jurisdiction of the director of licensing any complaint charging that the holder of a license has been guilty of any act or omission which by the provisions of the law under which the license was issued would warrant the revocation thereof, verified in the manner provided by law, the director of licensing shall request the governor to appoint, and the governor shall appoint within thirty days of the request, two qualified practitioners of the profession or calling of the person charged, who, with the director or his duly appointed representative, shall constitute a committee to hear and determine the charges and, in case the charges are sustained, impose the penalty provided by law. In addition, the governor shall appoint a consumer member of the committee.

The decision of any three members of such committee shall be the decision of the committee.

The appointed members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses, in accordance with RCW 43.03.050 and 43.03.060.

Sec. 150. Section 3, chapter 122, Laws of 1977 ex. sess. and RCW 70.54.150 are each amended to read as follows:

No physician may be subject to disciplinary action by any entity of either the state of Washington or a professional association for prescribing or administering amygdalin (Laetrile) to a patient under his/her care who has requested the substance after having been given sufficient information in writing to make an informed decision.

It is not the intent of this section to shield a physician from acts or omissions which otherwise would constitute unprofessional conduct (~~as defined in RCW 18.57.170 and 18.72.030~~).

Sec. 151. Section 2, chapter 50, Laws of 1981 and RCW 70.54.190 are each amended to read as follows:

No hospital or health facility may interfere with the physician/patient relationship by restricting or forbidding the use of DMSO (dimethyl sulfoxide) when prescribed or administered by a physician licensed pursuant to chapter 18.57 or 18.71 RCW and requested by a patient under his/her care who has requested the substance after having been given sufficient information in writing to make an informed decision.

No physician may be subject to disciplinary action by any entity of either the state of Washington or a professional association for prescribing or administering DMSO (dimethyl sulfoxide) to a patient under his/her care

who has requested the substance after having been given sufficient information in writing to make an informed decision.

It is not the intent of this section to shield a physician from acts or omissions which otherwise would constitute unprofessional conduct ((as defined in RCW 18.57.170 and 18.72.030)).

NEW SECTION. Sec. 152. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House January 13, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 260

[House Bill No. 1504]

MOORAGE FACILITIES—MOORAGE COLLECTION

AN ACT Relating to moorage collection; and amending RCW 53.08.310 and 53.08.320.

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

Sec. 1. Section 1, chapter 188, Laws of 1983 and RCW 53.08.310 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 53.08.320.

(1) "Port charges" mean charges of a moorage facility operator for moorage and storage, and all other charges owing or to become owing under a contract between a vessel owner and the moorage facility operator, or under an officially adopted tariff including, but not limited to, costs of sale and related legal expenses.

(2) "Vessel" means every species of watercraft or other artificial contrivance capable of being used as a means of transportation on water and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft.

(3) "Moorage facility" means any properties or facilities owned or operated by a moorage facility operator which are capable of use for the moorage or storage of vessels.

(4) "Moorage facility operator" means any port district, city, town, metropolitan park district, or county which owns and/or operates a moorage facility.

(5) "Owner" means every natural person, firm, partnership, corporation, association, or organization, or agent thereof, with actual or apparent authority, who expressly or impliedly contracts for use of a moorage facility.

(6) "Transient vessel" means a vessel using a moorage facility and which belongs to an owner who does not have a moorage agreement with the moorage facility operator. Transient vessels include, but are not limited to: Vessels seeking a harbor of refuge, day use, or overnight use of a moorage facility on a space-as-available basis.

Sec. 2. Section 2, chapter 188, Laws of 1983 as amended by section 124, chapter 7, Laws of 1985 and RCW 53.08.320 are each amended to read as follows:

A moorage facility operator may adopt all regulations necessary for rental and use of moorage facilities and for the expeditious collection of port charges. The regulations may also establish procedures for the enforcement of these regulations by port district, city, county, metropolitan park district or town personnel. The regulations shall include the following:

(1) Procedures authorizing moorage facility personnel to take reasonable measures, including the use of chains, ropes, and locks, or removal from the water, to secure vessels within the moorage facility so that the vessels are in the possession and control of the moorage facility operator and cannot be removed from the moorage facility. These procedures may be used if an owner mooring or storing a vessel at the moorage facility fails, ((for more than sixty days)) after being notified that charges are owing and of the owner's right to commence legal proceedings to contest that such charges are owing, to pay the port charges owed or to commence legal proceedings. Notification shall be by registered mail to the owner at his last known address. ((ff)) In the case of a transient vessel, or where no address was furnished by the owner, the ((port district, city, county, metropolitan park district, or town)) moorage facility operator need not give such notice prior to securing the vessel. At the time of securing the vessel, an authorized moorage facility employee shall attach to the vessel ((two)) a readily visible ((notification stickers)) notice. The ((stickers)) notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the ((stickers were)) notice was attached;
 (b) ((The identity of the authorized employee;
 (c)) A statement that if the account is not paid in full within ((one hundred eighty)) ninety days from the time the ((stickers are)) notice is attached, the vessel may be sold at public auction to satisfy the port charges; and

((dd)) (c) The address and telephone number where additional information may be obtained concerning release of the vessel.

((If the)) After a vessel is ((the subject of a delinquent moorage account, and sixty days have expired since notification pursuant to subsection (1) of this section, the moorage facility operator shall review its records to ascertain the identity of the owner.)) secured, the operator shall make a reasonable effort to ((contact)) notify the owner by registered mail in order

to give the owner the information ~~((on))~~ contained in the ((notification stickers)) notice.

(2) Procedures authorizing moorage facility personnel at their discretion to move moored vessels ashore for storage within properties under the operator's control or for storage with private persons under their control as bailees of the moorage facility, if the vessel is, in the opinion of port personnel~~(;)~~ a nuisance, if the vessel is in danger of sinking ((or of sustaining)) or creating other damage, or is owing port charges. ~~((Reasonable))~~ Costs of any such procedure shall be paid by the vessel's owner.

(3) If a vessel is secured under subsection (1) of this section or moved ashore under subsection (2) of this section, the owner who is obligated to the moorage facility operator for port charges may regain possession of the vessel by:

(a) Making arrangements satisfactory with the moorage facility operator for the immediate removal of the vessel from the moorage facility or for authorized moorage; and

(b) Making payment to the moorage facility operator of all port charges, or by posting with the moorage facility operator a sufficient cash bond or other acceptable security ~~((acceptable to such operator)),~~ to be held in trust by the moorage facility operator pending written agreement of the parties with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the ~~((port))~~ charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, or after the parties reach agreement with respect to payment, the trust shall terminate and the moorage facility operator shall receive so much of the bond or other security as is agreed, or as is necessary to satisfy any judgment, costs, and interest as may be awarded to the moorage facility operator. The balance shall be refunded immediately to the owner at his last known address.

(4) ~~((If a vessel moored or stored at a moorage facility is abandoned, the port district, city, county, metropolitan park district, or town, may, by resolution of its legislative authority, authorize the public sale of the vessel by authorized personnel to the highest and best bidder for cash as follows:~~

~~((a)))~~ If a vessel has been secured by the moorage facility operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ~~((one hundred eighty))~~ ninety days after notifying or attempting to notify the owner under subsection (1) of this section, ~~((or in all other cases, for one hundred eighty days after the operator secures the vessel,))~~ the vessel shall be conclusively presumed to have been abandoned by the owner~~(;))~~.

~~((b)))~~ (5) If a vessel moored or stored at a moorage facility is abandoned, the moorage facility operator may, by resolution of its legislative authority, authorize the public sale of the vessel by authorized personnel to the highest and best bidder for cash as follows:

(a) Before the vessel is sold, the owner of the vessel shall be given at least twenty days' notice of the sale in the manner set forth in subsection (1) of this section if the name and address of the owner is known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of port charges owed with respect to the vessel. The notice of sale shall be published at least once, more than ten but not more than twenty days before the sale, in a newspaper of general circulation in the county in which the moorage facility is located. Such notice shall include the name of the vessel, if any, the last known owner and address, and a reasonable description of the vessel to be sold. The moorage facility operator may bid all or part of its port charges at the sale and may become a purchaser at the sale;

(b) Before the vessel is sold, any person seeking to redeem an impounded vessel under this section may commence a lawsuit in the superior court for the county in which the vessel was impounded to contest the validity of the impoundment or the amount of the port charges owing. Such lawsuit must be commenced within ten days of the date the notification was provided pursuant to subsection (1) of this section, or the right to a hearing shall be deemed waived and the owner shall be liable for any port charges owing the moorage facility operator. In the event of litigation, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

(c) The proceeds of a sale under this section shall first be applied to the payment of port charges. The balance, if any, shall be paid to the owner. If the owner cannot in the exercise of due diligence be located by the moorage facility operator within one year of the date of the sale, the excess funds from the sale shall revert to the department of revenue pursuant to chapter 63.29 RCW. If the sale is for a sum less than the applicable port charges, the moorage facility operator is entitled to assert a claim for a deficiency.

(d) In the event no one purchases the vessel at a sale, or a vessel is not removed from the premises or other arrangements are not made within ten days of sale, title to the vessel will revert to the moorage facility operator.

~~((5))~~ (6) The regulations authorized under this section shall be enforceable only if the moorage facility has had its tariff containing such regulations conspicuously posted at ~~((at))~~ its moorage facility ~~((offices))~~ at all times.

Passed the House February 13, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 261

[Senate Bill No. 4535]

PROFESSIONAL SERVICE CORPORATIONS—NONPROFIT
CORPORATIONS—BUSINESS CORPORATIONS

AN ACT Relating to professional service corporations; amending RCW 18.100.050, 18.100.130, 18.100.134, and 82.04.431; adding new sections to chapter 18.100 RCW; and repealing RCW 24.03.038.

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

Sec. 1. Section 5, chapter 122, Laws of 1969 as amended by section 1, chapter 100, Laws of 1983 and RCW 18.100.050 are each amended to read as follows:

An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Title 23A RCW for the purpose of rendering professional service: PROVIDED, That one or more of such legally authorized individuals shall be the incorporators of such professional corporation: PROVIDED FURTHER, That notwithstanding any other provision of this chapter, registered architects and registered engineers may own stock in and render their individual professional services through one professional service corporation: ~~((AND))~~ PROVIDED FURTHER, That licensed health care professionals, providing services to enrolled participants either directly or through arrangements with a health maintenance organization registered under chapter 48.46 RCW or federally qualified health maintenance organization, may own stock in and render their individual professional services through one professional service corporation: AND PROVIDED FURTHER, That professionals may organize a non-profit nonstock corporation under this chapter and chapter 24.03 RCW to provide professional services, and the provisions of this chapter relating to stock and referring to Title 23A RCW shall not apply to any such corporation.

Sec. 2. Section 13, chapter 122, Laws of 1969 as amended by section 6, chapter 51, Laws of 1983 and RCW 18.100.130 are each amended to read as follows:

(1) For a professional service corporation organized for pecuniary profit under this chapter, the provisions of Title 23A RCW shall be applicable ~~((to a corporation organized pursuant to this chapter))~~ except to the extent that any of the provisions of this chapter are interpreted to be in conflict with the provisions thereof, and in such event the provisions and sections of this chapter shall take precedence with respect to a corporation organized pursuant to the provisions of this chapter.

(2) For a professional service corporation organized under this chapter and chapter 24.03 RCW as a nonprofit nonstock corporation, the provisions of chapter 24.03 RCW shall be applicable except to the extent that any of the provisions of this chapter are interpreted to be in conflict with the provisions thereof, and in such event the provisions and sections of this chapter shall take precedence with respect to a corporation organized under the provisions of this chapter.

Sec. 3. Section 9, chapter 51, Laws of 1983 and RCW 18.100.134 are each amended to read as follows:

A professional corporation may amend its articles of incorporation to delete from its stated purposes the rendering of professional services and to conform to the requirements of Title 23A RCW, or to the requirements of chapter 24.03 RCW if organized pursuant to RCW 18.100.050 as a nonprofit nonstock corporation. Upon the effective date of such amendment, the corporation shall no longer be subject to the provisions of this chapter and shall continue in existence as a corporation under Title 23A RCW or chapter 24.03 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 18.100 RCW to read as follows:

A nonprofit professional service corporation formed pursuant to chapter 431, Laws of 1985, may amend its articles of incorporation at any time before July 31, 1987, to comply with the provisions of this chapter. Compliance under this chapter shall relate back and take effect as of the date of formation of the corporation under chapter 431, Laws of 1985, and the corporate existence shall be deemed to have continued without interruption from that date.

NEW SECTION. Sec. 5. A new section is added to chapter 18.100 RCW to read as follows:

A business corporation formed under the provisions of Title 23A RCW may amend its articles of incorporation to change its stated purpose to the rendering of professional services and to conform to the requirements of this chapter. Upon the effective date of such amendment, the corporation shall be subject to the provisions of this chapter and shall continue in existence as a professional corporation under this chapter.

Sec. 6. Section 6, chapter 196, Laws of 1979 ex. sess. as last amended by section 3, chapter 431, Laws of 1985 and RCW 82.04.431 are each amended to read as follows:

(1) For the purposes of RCW 82.04.4297, the term "health or social welfare organization" means an organization, including any community action council, which renders health or social welfare services as defined in subsection (2) of this section, which is a not-for-profit corporation under chapter 24.03 RCW and which is managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization

or which is a corporation sole under chapter 24.12 RCW. Health or social welfare organization does not include a corporation providing professional services as authorized in chapter 18.100 RCW ((24.03.038)). In addition a corporation in order to be exempt under RCW 82.04.4297 shall satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public service of the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified where licensing or certification is required by law or regulation;

(e) The amounts received qualifying for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue shall have access to its books in order to determine whether the corporation is exempt from taxes within the intent of RCW 82.04.4297 and this section.

(2) The term "health or social welfare services" includes and is limited to:

(a) Mental health, drug, or alcoholism counseling or treatment;

(b) Family counseling;

(c) Health care services;

(d) Therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or physically, developmentally, or emotionally-disabled individuals;

(e) Activities which are for the purpose of preventing or ameliorating juvenile delinquency or child abuse, including recreational activities for those purposes;

(f) Care of orphans or foster children;

(g) Day care of children;

(h) Employment development, training, and placement;

(i) Legal services to the indigent;

(j) Weatherization assistance or minor home repair for low-income homeowners or renters;

(k) Assistance to low-income homeowners and renters to offset the cost of home heating energy, through direct benefits to eligible households or to fuel vendors on behalf of eligible households; and

(l) Community services to low-income individuals, families, and groups, which are designed to have a measurable and potentially major impact on causes of poverty in communities of the state.

NEW SECTION. Sec. 7. Section 2, chapter 431, Laws of 1985 and RCW 24.03.038 are each repealed.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 262

[Engrossed Substitute House Bill No. 1804]

PORT DISTRICT FORMATION

AN ACT Relating to port districts; amending RCW 53.04.020 and 53.12.020; creating a new section; and providing an expiration date.

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

Sec. 1. Section 2, chapter 92, Laws of 1911 as last amended by section 1, chapter 157, Laws of 1971 ex. sess. and RCW 53.04.020 are each amended to read as follows:

At any general election or at any special election which may be called for that purpose, the board of county commissioners of any county in this state may, or on petition of ten percent of the qualified electors of such county based on the total vote cast in the last general county election, shall, by resolution submit to the voters of such county the proposition of creating a port district which ~~((shall))~~ may: (1) Be coextensive with the limits of such county as now or hereafter established; or (2) be under the provisions of section 3 of this 1986 act. Such petition shall be filed with the county auditor, who shall within fifteen days examine the signatures thereof and certify to the sufficiency or insufficiency thereof, and for such purpose the county auditor shall have access to all registration books in the possession of the officers of any incorporated city or town in such proposed port district. If such petition be found to be insufficient, it shall be returned to the persons filing the same, who may amend or add names thereto for ten days, when the same shall be returned to the county auditor, who shall have an additional fifteen days to examine the same and attach his certificate thereto. No person having signed such petition shall be allowed to withdraw his name therefrom after the filing of the same with the county auditor. Whenever such petition shall be certified to as sufficient, the county auditor shall

forthwith transmit the same, together with his certificate of sufficiency attached thereto, to the ~~((board of county commissioners))~~ legislative authority of the county, who shall submit such proposition at the next general election or, if such petition so requests, the board of county commissioners shall, at their first meeting after the date of such certificate, by resolution, call a special election to be held not less than thirty days nor more than sixty days from the date of such certificate. The notice of election shall state the boundaries of the proposed port district and the object of such election. In submitting the said question to the voters for their approval or rejection, the proposition shall be expressed on said ballot substantially in the following terms:

"Port of, Yes." (giving the name of the principal seaport city within such proposed port district, or if there be more than one city of the same class within such district, such name as may be determined by the ~~((board of county commissioners))~~ legislative authority of the county).

"Port of, No." (giving the name of the principal seaport city within such port district, or if there be more than one city of the same class within such district, such name as may be determined by the ~~((board of county commissioners))~~ legislative authority of the county).

Sec. 2. Section 4, chapter 17, Laws of 1959 as last amended by section 2, chapter 51, Laws of 1965 and RCW 53.12.020 are each amended to read as follows:

In port districts located in a class AA county no person shall be eligible to hold the office of port commissioner unless he is a qualified voter of the district. In all other port districts except those located in a class AA county the person must be a qualified voter of the commissioner district from which he is elected.

If, pursuant to RCW 29.21.350, a void in candidacy has been declared for a port district, any registered voter of the port district is eligible to file a declaration of candidacy for the office of port commissioner when filing for the office is reopened pursuant to RCW 29.21.360 or 29.21.370.

NEW SECTION. Sec. 3. When it is desired to create a port district comprising territory less than the entire county and with an assessed valuation of at least one hundred eighty million dollars in other than class A counties, the county commissioners shall, upon petition of ten percent or more of the electors residing within the proposed boundaries of such proposed district based on the total vote at the last general election within such area, submit to the qualified electors residing within such proposed district the proposition of creating such port district. If at any such election a majority of the votes cast thereon shall be in favor of establishing such port district and the total vote cast upon such question shall equal one-third of the total vote cast at the last preceding general election within such area, such port district shall be established.

NEW SECTION. Sec. 4. Section 3 of this act shall expire on December 31, 1988.

Passed the House February 13, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 263

[Senate Bill No. 4556]

SPAS, HOT TUBS, SWIMMING POOLS, AND HYDROMASSAGE—ELECTRICAL EQUIPMENT SAFETY STANDARDS

AN ACT Relating to electrical equipment safety standards; and amending RCW 19.28.010.

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

Sec. 1. Section 1, chapter 169, Laws of 1935 as last amended by section 2, chapter 206, Laws of 1983 and RCW 19.28.010 are each amended to read as follows:

(1) All wires and equipment, and installations thereof, that convey electric current and installations of equipment to be operated by electric current, in, on, or about buildings or structures, except for telephone, telegraph, radio, and television wires and equipment, and television antenna installations, signal strength amplifiers, and coaxial installations pertaining thereto shall be in strict conformity with this chapter, the statutes of the state of Washington, and the rules issued by the department, and shall be in conformity with approved methods of construction for safety to life and property. All wires and equipment that fall within section 90.2(b)(5) of the National Electrical Code, 1981 edition, are exempt from the requirements of this chapter. The regulations and articles in the National Electrical Code, as approved by the American Standards Association, and in the national electrical safety code, as approved by the American Standards Association, and other installation and safety regulations approved by the American Standards Association, as modified or supplemented by rules issued by the department in furtherance of safety to life and property under authority hereby granted, shall be prima facie evidence of the approved methods of construction. All materials, devices, appliances, and equipment used in such installations shall be of a type that conforms to applicable standards or be indicated as acceptable by the established standards of the Underwriters' Laboratories, Inc. or other equivalently national recognized authorities.

(2) This chapter shall not limit the authority or power of any city or town to enact and enforce under authority given by law, any ordinance, rule, or regulation requiring an equal, higher, or better standard of construction and an equal, higher, or better standard of materials, devices, appliances, and equipment than that required by this chapter. In a city or

town having an equal, higher, or better standard the installations, materials, devices, appliances, and equipment shall be in accordance with the ordinance, rule, or regulation of the city or town. Electrical equipment associated with spas, hot tubs, swimming pools, and hydromassage bathtubs shall not be offered for sale or exchange unless the electrical equipment is certified as being in compliance with the applicable product safety standard by bearing the certification mark of an approved electrical products testing laboratory.

(3) Nothing in this chapter may be construed as permitting the connection of any conductor of any electric circuit with a pipe that is connected with or designed to be connected with a waterworks piping system, without the consent of the person or persons legally responsible for the operation and maintenance of the waterworks piping system.

Passed the Senate February 13, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 264

[Substitute Senate Bill No. 4661]

HOUSING FINANCE COMMISSION—BOND ISSUANCE—DEBT LIMIT— ANNUAL AUDIT—REVISIONS

AN ACT Relating to extension of authority to issue and allocate bonds and raise the maximum indebtedness of the Washington state housing finance commission; amending RCW 43.180.050, 43.180.160, and 43.180.200; repealing RCW 43.180.210; and declaring an emergency.

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

Sec. 1. Section 5, chapter 161, Laws of 1983 and RCW 43.180.050 are each amended to read as follows:

(1) In addition to other powers and duties prescribed in this chapter, and in furtherance of the purposes of this chapter to provide decent, safe, sanitary, and affordable housing for eligible persons, the commission is empowered to:

(a) Issue bonds in accordance with this chapter (~~(- PROVIDED, HOWEVER, That this power to issue bonds shall cease to exist on June 30, 1986, unless extended by law for an additional fixed period of time));~~

(b) Invest in, purchase, or make commitments to purchase or take assignments from mortgage lenders of mortgages or mortgage loans;

(c) Make loans to or deposits with mortgage lenders for the purpose of making mortgage loans; and

(d) Participate fully in federal and other governmental programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and

to meet their requirements, including such actions as the commission considers appropriate in order to have the interest payments on its bonds and other obligations treated as tax exempt under the code.

(2) The commission shall establish eligibility standards for eligible persons, considering at least the following factors:

- (a) Income;
- (b) Family size;
- (c) Cost, condition and energy efficiency of available residential housing;
- (d) Availability of decent, safe, and sanitary housing;
- (e) Age or infirmity; and
- (f) Applicable federal, state, and local requirements.

The state auditor shall audit the books, records, and affairs of the commission annually to determine, among other things, if the use of bond proceeds complies with the general plan of housing finance objectives including compliance with the objective for the use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings.

Sec. 2. Section 16, chapter 161, Laws of 1983 and RCW 43.180.160 are each amended to read as follows:

The total amount of outstanding indebtedness of the commission may not exceed one and one-half billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise.

Sec. 3. Section 20, chapter 161, Laws of 1983 as last amended by section 15, chapter 6, Laws of 1985 and RCW 43.180.200 are each amended to read as follows:

For purposes of the code:

(1) The legislature reserves the right at any time to alter or change the structure, organization, programs, or activities of the commission and to terminate the commission, so long as the action does not impair any outstanding contracts entered into by the commission;

(2) Any net earnings of the commission beyond that necessary to retire its bonds and to carry out the purposes of this chapter shall not inure to the benefit of any person other than the state;

(3) Upon dissolution of the commission, title to all of its remaining property shall vest in the state;

(4) The commission constitutes the only housing finance agency of the state of Washington; and

(5) In order to take advantage of the maximum amount of tax exempt bonds for housing financing available pursuant to the code, ~~((the))~~ any state ceiling ~~((for each of the calendar years through 1986))~~ with respect to housing shall be allocated in accordance with the following formula:

(a) Eighty percent of the state ceiling shall be allocated to the commission and twenty percent shall be allocated to the other issuing authorities in the state.

(b) The allocation to the issuing authorities other than the commission shall be distributed to such issuing authorities in amounts as determined following public notice by the department of community development pursuant to rules promulgated by it. The distribution shall be in response to applications received from such issuing authorities and shall be based on the following factors: (i) The amount of housing to be made available by such applicant; (ii) the population within the jurisdiction of the applicant; (iii) coordination with other applicable federal and state housing programs; (iv) the likelihood of implementing the proposed financing during that year; and (v) consistency with the plan of the commission. On or before February 1 of each year, the department of community development shall distribute the state ceiling allocation among such issuing authorities and any unused portion shall be added to the allocation of the commission. Each issuing authority other than the commission shall confirm its allocation distribution by providing to the department of community development no later than June 1 a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evidence the reasonable likelihood of the allocation distribution being fully used. Any portion of such allocation not so confirmed shall be added to the allocation of the commission on July 1. Prior to July 1, the commission shall provide written notice of the allocation decrease to the affected issuing authority. The reallocation shall not limit the authority of the commission to assign a portion of its allocation pursuant to subsection (5)(c) of this section.

(c) The commission may assign a portion of its allocation to another issuing agency.

NEW SECTION. Sec. 4. Section 22, chapter 161, Laws of 1983 and RCW 43.180.210 are each repealed.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 265

[Substitute Senate Bill No. 4769]

FEED CONSUMED BY LIVESTOCK AT PUBLIC LIVESTOCK MARKETS—SALES
AND USE TAX EXEMPT

AN ACT Relating to excise taxation of sales of feed; adding a new section to chapter 82.08 RCW; and adding a new section to chapter 82.12 RCW.

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

NEW SECTION. Sec. 1. 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 feed consumed by livestock at a public livestock market.

NEW SECTION. Sec. 2. A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter shall not apply with respect to the use of feed consumed by livestock at a public livestock market.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 266

[Substitute House Bill No. 1709]

CONSOLIDATION OF CERTAIN AGENCIES INTO THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

AN ACT Relating to consolidation of agencies into the department of community development; amending RCW 27.34.020, 27.34.210, 27.34.220, 27.34.230, 27.34.240, 27.34.270, 27.34.280, 27.53.020, 27.53.030, 27.53.060, 27.53.080, 27.53.090, 28A.24.172, 38.52.005, 38.52.010, 38.52.020, 38.52.030, 38.52.037, 38.52.050, 38.52.070, 38.52.090, 38.52.170, 38.52.207, 38.52.210, 38.52.240, 38.52.250, 38.52.300, 38.52.310, 38.52.320, 38.52.330, 38.52.340, 38.52.360, 38.52.370, 38.52.390, 38.52.400, 38.52.410, 40.10.020, 43.131.313, 43.131.314, 46.16.340, 70.136.030, 28C.50.010, 28C.50.050, 28C.51.010, 28C.51.050, 48.05.320, 48.48.030, 48.48.040, 48.48.045, 48.48.050, 48.48.060, 48.48.065, 48.48.070, 48.48.080, 48.48.090, 48.48.110, 48.50.020, 28C.04.040, 4.24.400, 9.40.100, 18.20.130, 18.46.110, 18.51.140, 18.51.145, 19.27A.110, 28A.04.120, 43.43.710, 46.37.467, 48.48.140, 48.48.150, 48.50.040, 48.53.020, 48.53.060, 70.41.080, 70.62.290, 70.75.020, 70.75.030, 70.75.040, 70.77.170, 70.77.250, 70.77.305, 70.77.315, 70.77.325, 70.77.330, 70.77.355, 70.77.360, 70.77.365, 70.77.375, 70.77.415, 70.77.430, 70.77.435, 70.77.440, 70.77.450, 70.77.455, 70.77.460, 70.77.465, 70.77.575, 70.77.580, 70.105.020, 70.108.040, 70.160.060, 71.12.485, 74.15.050, 74.15.080, 43.63A.020, and 43.63A.065; reenacting and amending RCW 43.220.070 and 80.50.030; adding a new section to chapter 41.06 RCW; adding new sections to chapter 43.63A RCW; creating new sections; decodifying RCW 27.34.905; repealing RCW 27.34.290, 28C.04.142, 28C.04.144, 48.48.001, 48.48.005, 48.48.011, 48.48.015, 48.48.021, 48.48.025, 48.48.028, 41.06.091; repealing section 28, chapter 470, Laws of 1985 (uncodified); repealing section 29, chapter 470, Laws of 1985 (uncodified); repealing section 30, chapter 470, Laws of 1985 (uncodified); repealing section 31, chapter 470, Laws of 1985 (uncodified); repealing section 32, chapter 470, Laws of 1985 (uncodified); repealing section 33, chapter 470, Laws of 1985 (uncodified); repealing section 34, chapter 470, Laws of 1985 (uncodified); repealing section 35, chapter 470, Laws of 1985

(uncodified), and repealing section 36, chapter 470, Laws of 1985 (uncodified); providing an effective date; and declaring an emergency.

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

**OFFICE OF ARCHAEOLOGY AND HISTORIC
PRESERVATION/DEPARTMENT OF EMERGENCY
MANAGEMENT**

NEW SECTION. Sec. 1. The department of emergency management and the office of archaeology and historic preservation are hereby abolished and their powers, duties, and functions are hereby transferred to the department of community development. All references to the director of emergency management or the department of emergency management and the office of archaeology and historic preservation in the Revised Code of Washington shall be construed to mean the director or department of community development.

NEW SECTION. Sec. 2. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of emergency management and the office of archaeology and historic preservation shall be delivered to the custody of the department of community development. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of emergency management and the office of archaeology and historic preservation shall be made available to the department of community development. All funds, credits, or other assets held by the department of emergency management and the office of archaeology and historic preservation shall be assigned to the department of community development.

Any appropriations made to the department of emergency management and the office of archaeology and historic preservation shall, on the effective date of this act, be transferred and credited to the department of community development.

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. 3. All employees of the department of emergency management and the office of archaeology and historic preservation are transferred to the jurisdiction of the department of community development. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of community development 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. 4. All rules and all pending business before the department of emergency management and the office of archaeology and historic preservation shall be continued and acted upon by the department of community development. All existing contracts and obligations shall remain in full force and shall be performed by the department of community development.

NEW SECTION. Sec. 5. The transfer of the powers, duties, functions, and personnel of the department of emergency management and the office of archaeology and historic preservation shall not affect the validity of any act performed prior to the effective date of this act.

NEW SECTION. Sec. 6. If apportionments of budgeted funds are required because of the transfers directed by sections 2 through 5 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. 7. Nothing contained in sections 1 through 6 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.

NEW SECTION. Sec. 8. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in this chapter, this chapter shall not apply within the department of community development to the state historic preservation officer and up to two professional staff members within the emergency management program.

Sec. 9. Section 2, chapter 91, Laws of 1983 and RCW 27.34.020 are each amended to read as follows:

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

(1) "Advisory council" means the advisory council on historic preservation.

(2) "Department" means the department of community development.

(3) "Director" means the director of community development.

(4) "Federal act" means the national historic preservation act of 1966 (Public Law 89-655; 80 Stat. 915).

~~((3))~~ (5) "Heritage council" means the Washington state heritage council.

~~((4))~~ (6) "Historic preservation" includes the protection, rehabilitation, restoration, identification, scientific excavation, and reconstruction of districts, sites, buildings, structures, and objects significant in American and Washington state history, architecture, archaeology, or culture.

~~((5))~~ (7) "Office" means the office of archaeology and historic preservation within the department of community development.

~~((6))~~ (8) "Preservation officer" means the state historic preservation officer as provided for in RCW 27.34.210.

~~((7))~~ (9) "Project" means programs leading to the preservation for public benefit of historical properties, whether by state and local governments or other public bodies, or private organizations or individuals, including the acquisition of title or interests in, and the development of, any district, site, building, structure, or object that is significant in American and Washington state history, architecture, archaeology, or culture, and property used in connection therewith, or for its development.

~~((8))~~ (10) "State historical agencies" means the state historical societies and the office of archaeology and historic preservation within the department of community development.

~~((9))~~ (11) "State historical societies" means the Washington state historical society, the eastern Washington state historical society, and the state capital historical association.

~~((10))~~ (12) "Cultural resource management plan" means a comprehensive plan which identifies and organizes information on the state of Washington's historic, archaeological, and architectural resources into a set of management criteria, and which is to be used for producing reliable decisions, recommendations, and advice relative to the identification, evaluation, and protection of these resources.

Sec. 10. Section 11, chapter 91, Laws of 1983 and RCW 27.34.210 are each amended to read as follows:

There is hereby established the office of archaeology and historic preservation within the department of community development.

The ~~((governor))~~ director shall appoint the preservation officer ~~((with the consent of the senate, as the director of the office and set the salary for the position))~~ to assist the director in implementing this chapter. The preservation officer shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington.

Sec. 11. Section 12, chapter 91, Laws of 1983 as amended by section 2, chapter 64, Laws of 1985 and RCW 27.34.220 are each amended to read as follows:

The ~~((preservation officer shall supervise and administer the activities of the office. The preservation officer))~~ director or the director's designee is authorized:

(1) To promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Washington

state history, architecture, archaeology, and culture, and to prepare comprehensive state-wide historic surveys and plans and research and evaluation of surveyed resources for the preparation of nominations to the state and national registers of historic places, in accordance with criteria approved by the advisory council established under RCW 27.34.250. The nominations shall comply with any standards and regulations promulgated by the United States secretary of the interior for the preservation, acquisition, and development of such properties.

(2) To establish a program of matching grants-in-aid to public agencies, public or private organizations, or individuals for projects having as their purpose the preservation for public benefit of properties that are significant in American or Washington state history, architecture, archaeology, and culture.

(3) To promote historic preservation efforts throughout the state, including private efforts and those of city, county, and state agencies.

(4) To enhance the effectiveness of the state preservation program through the initiation of legislation, the use of varied funding sources, the creation of special purpose programs, and contact with state, county, and city officials, civic groups, and professionals.

(5) To spend funds, subject to legislative appropriation and the availability of funds, where necessary to assist the Indian tribes of Washington state in removing prehistoric human remains for scientific examination and reburial, if the human remains have been unearthed inadvertently or through vandalism and if no other public agency is legally responsible for their preservation.

(6) To consult with the governor and the legislature on issues relating to the conservation of the man-made environment and their impact on the well-being of the state and its citizens. The ~~((office))~~ department shall submit periodic reports of its activities under this chapter to the governor and the legislature.

(7) To charge fees for professional and clerical services provided by the office.

(8) To adopt such rules, in accordance with chapter 34.04 RCW, as are necessary to carry out RCW 27.34.200 through 27.34.290.

Sec. 12. Section 13, chapter 91, Laws of 1983 and RCW 27.34.230 are each amended to read as follows:

The ~~((preservation officer))~~ director or the director's designee shall:

(1) Submit the budget requests for the office to the heritage council for review and comment;

~~(2) ((Maintain and administer all funds appropriated by the legislature to the office for the purpose of carrying out the duties, functions, and responsibilities of the office under both state and federal law;~~

~~(3))~~) Receive, administer, and disburse such gifts, grants, and endowments from private sources as may be made in trust or otherwise for the purposes of RCW 27.34.200 through 27.34.290 or the federal act; and

~~((4))~~) (3) Develop and implement a cultural resource management plan.

Sec. 13. Section 14, chapter 91, Laws of 1983 and RCW 27.34.240 are each amended to read as follows:

The amounts made available for grants to the public agencies, public or private organizations, or individuals for projects for each fiscal year shall be apportioned among program applicants by the director or the director's designee, with the advice of the preservation officer, in accordance with needs as contained in state-wide archaeology and historic preservation plans developed by the ~~((office and approved by the governor))~~ department.

Sec. 14. Section 17, chapter 91, Laws of 1983 and RCW 27.34.270 are each amended to read as follows:

The advisory council shall:

(1) Advise the governor and the ~~((office))~~ department on matters relating to historic preservation; recommend measures to coordinate activities of state and local agencies, private institutions, and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities; and

(2) Review and recommend nominations for the state and national registers of historic places to the preservation officer and the director.

Sec. 15. Section 16, chapter 91, Laws of 1983 and RCW 27.34.280 are each amended to read as follows:

The ~~((office))~~ department shall provide administrative and financial services to the advisory council on historic preservation and to the Washington state heritage council.

Sec. 16. Section 2, chapter 134, Laws of 1975 1st ex. sess. as last amended by section 12, chapter 195, Laws of 1977 ex. sess. and RCW 27.53.020 are each amended to read as follows:

The discovery, identification, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions; and the Washington archaeological research center, created under the authority of chapter 39.34 RCW as now existing or hereafter amended, is hereby designated as an appropriate agency to carry out these functions. The ~~((preservation officer))~~ director, in consultation with the Washington archaeological research center, shall provide guidelines for the selection of depositories

designated by the state for archaeological resources. The legislature directs that there shall be full cooperation amongst the ~~((office))~~ department, the Washington archaeological research center, and other agencies of the state.

Sec. 17. Section 3, chapter 134, Laws of 1975 1st ex.-sess. as last amended by section 20, chapter 91, Laws of 1983 and RCW 27.53.030 are each amended to read as follows:

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

(1) "Archaeology" means systematic, scientific study of man's past through ~~((his))~~ material remains.

(2) "Department" means the department of community development.

(3) "Director" means the director of community development or the director's designee.

(4) "Historic" means peoples and cultures who are known through written documents in their own or other languages.

~~((3))~~ (5) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

~~((4))~~ (6) "Professional archaeologist" means a person who has met the educational, training, and experience requirements of the society of professional archaeologists.

~~((5))~~ (7) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists.

~~((6))~~ (8) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

~~((7))~~ "Preservation officer" means the state historic preservation officer as provided for in chapter 27.34 RCW.

~~((8))~~ "Office" means the office of archaeology and historic preservation.)

Sec. 18. Section 6, chapter 134, Laws of 1975 1st ex. sess. as last amended by section 14, chapter 195, Laws of 1977 ex. sess. and RCW 27.53.060 are each amended to read as follows:

On the private and public lands of this state it shall be unlawful for any person, firm, corporation, or any agency or institution of the state or a political subdivision thereof to knowingly alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, American Indian or aboriginal camp site, dwelling site, rock shelter, cave dwelling site, storage site, grave, burial site, or skeletal remains and grave goods, cairn, or tool making site, or to remove from any such land, site, or area, grave,

burial site, cave, rock shelter, or cairn, any skeletal remains, artifact or implement of stone, bone, wood, or any other material, including, but not limited to, projectile points, arrowheads, knives, awls, scrapers, beads or ornaments, basketry, matting, mauls, pestles, grinding stones, rock carvings or paintings, or any other artifacts or implements, or portions or fragments thereof without having obtained written permission from the ((preservation officer)) director for such activities on public property or from the private landowner for such activities on private land. A private landowner may request the ((preservation officer)) director to assume the duty of issuing such permits. The ((preservation officer)) director must obtain the consent of the public property owner or agency responsible for the management thereof, prior to issuance of the permit. The ((preservation officer)) director, in consultation with the Washington state archaeological research center, shall develop guidelines for the issuance and processing of such permits. Such written permission shall be physically present while any such activity is being conducted. The provisions of this section shall not apply to the removal of artifacts found exposed on the surface of the ground nor to the excavation and removal of artifacts from state owned shorelands below the line of ordinary high water or within the intertidal zone.

Sec. 19. Section 8, chapter 134, Laws of 1975 1st ex. sess. as amended by section 15, chapter 195, Laws of 1977 ex. sess. and RCW 27.53.080 are each amended to read as follows:

Qualified or professional archaeologists, in performance of their duties, are hereby authorized to enter upon public lands of the state of Washington and its political subdivisions, at such times and in such manner as not to interfere with the normal management thereof, for the purposes of doing archaeological resource location and evaluation studies, including site sampling activities. Scientific excavations are to be carried out only after appropriate agreement has been made between a professional archaeologist or an institution of higher education and the agency or political subdivision responsible for such lands. Notice of such agreement shall be filed with the Washington archaeological research center and by them to the ((office)) department. Amateur societies may engage in such activities by submitting and having approved by the responsible agency or political subdivision a written proposal detailing the scope and duration of the activity. Before approval, a proposal from an amateur society shall be submitted to the Washington archaeological research center for review and recommendation.

Sec. 20. Section 9, chapter 134, Laws of 1975 1st ex. sess. as last amended by section 16, chapter 195, Laws of 1977 ex. sess. and RCW 27.53.090 are each amended to read as follows:

Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day of continued violation

of any provision of this chapter shall constitute a distinct and separate offense. Offenses shall be reported to the appropriate law enforcement agency; or to the ((preservation officer)) director.

Sec. 21. Section 2, chapter 24, Laws of 1971 as last amended by section 88, chapter 7, Laws of 1985 and RCW 28A.24.172 are each amended to read as follows:

Each school district board shall determine its own policy as to whether or not its school buses will be rented or leased for the purposes of RCW 28A.24.170, and if the board decision is to rent or lease, under what conditions, subject to the following:

(1) Such renting or leasing may take place only after the state director of ((emergency management)) community development or any of his or her agents so authorized has, at the request of an involved governmental agency, declared that an emergency exists in a designated area insofar as the need for additional transport is concerned.

(2) The agency renting or leasing the school buses must agree, in writing, to reimburse the school district for all costs and expenses related to their use and also must provide an indemnity agreement protecting the district against any type of claim or legal action whatsoever, including all legal costs incident thereto.

Sec. 22. Section 1, chapter 6, Laws of 1972 ex. sess. as amended by section 1, chapter 38, Laws of 1984 and RCW 38.52.005 are each amended to read as follows:

((On and after July 1, 1984, the state department of emergency services shall be known and designated as the department of emergency management which)) The department of community development shall administer the comprehensive emergency management program of the state of Washington as provided for in this chapter. All local organizations, organized and performing emergency management functions pursuant to RCW 38.52.070, may change their name and be called the department/division of emergency management.

Sec. 23. Section 3, chapter 178, Laws of 1951 as last amended by section 2, chapter 38, Laws of 1984 and RCW 38.52.010 are each amended to read as follows:

As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive

emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person who is registered with a ~~((state or))~~ local emergency management organization or the department of community development and holds an identification card issued by the ~~((state or))~~ local emergency management director or the department of community development for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6) "Emergency or disaster" as used in this chapter shall mean an event or set of circumstances which: (a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (b) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural or man-made disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47-.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor.

(9) "Director" means the director of ~~((the state department of emergency management as established by this chapter))~~ community development.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the department of community development.

Sec. 24. Section 2, chapter 178, Laws of 1951 as last amended by section 3, chapter 38, Laws of 1984 and RCW 38.52.020 are each amended to read as follows:

(1) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness as defined in RCW 38.52.010(6), and in order to insure that preparations of this state will be adequate to deal with such disasters, to insure the administration of state and federal programs providing disaster relief to individuals, and further to insure adequate support for search and rescue operations, and generally to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To ~~((create a state department of))~~ provide for emergency management by the state, and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;

(b) To confer upon the governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(c) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency management functions;

(d) To provide a means of compensating emergency management workers who may suffer any injury, as herein defined, or death; who suffer economic harm including personal property damage or loss; or who incur expenses for transportation, telephone or other methods of communication, and the use of personal supplies as a result of participation in emergency management activities; and

(e) To provide programs, with intergovernmental cooperation, to educate and train the public to be prepared for emergencies.

(2) It is further declared to be the purpose of this chapter and the policy of the state that all emergency management functions of this state and its political subdivisions be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

Sec. 25. Section 4, chapter 178, Laws of 1951 as last amended by section 4, chapter 38, Laws of 1984 and RCW 38.52.030 are each amended to read as follows:

(1) ~~((There is hereby created within the executive branch of the state government a department of emergency management. The department shall be headed by the director of emergency management. The director shall be appointed by the governor with the advice and consent of the senate, the director shall not hold any other state office, the director shall hold office at the pleasure of the governor, and shall be compensated at the rate established by the governor, subject to RCW 43.03.040.~~

(2)) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

((3)) (2) The director, subject to the direction and control of the governor, shall be ~~((the executive head of the department and shall be))~~ responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

((4)) (3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural and man-caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

((5)) (4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

((6)) (5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

((7)) (6) The director may appoint a communications coordinating committee consisting of six to eight persons with the director, or his or her designee, as chairman thereof. Three of the members shall be appointed from qualified, trained and experienced telephone communications administrators or engineers actively engaged in such work within the state of Washington at the time of appointment, and three of the members shall be appointed from qualified, trained and experienced radio communication administrators or engineers actively engaged in such work within the state of Washington at the time of appointment. This committee shall advise the

director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

~~((8))~~ (7) The director shall appoint a state coordinator of search and rescue operations(~~(, who shall)~~) to coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and (~~who shall~~) on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

~~((9))~~ (8) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural or man-made disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED, HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(9) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency response;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director.

Sec. 26. Section 6, chapter 459, Laws of 1985 and RCW 38.52.037 are each amended to read as follows:

The department (~~(of emergency management)~~) shall consult with appropriate local, state, federal, and private sector officials in developing a comprehensive state mine rescue plan. The plan shall identify mine rescue resources, set forth a framework for a coordinated response to mine rescue emergencies, identify shortfalls, and recommend solutions.

The draft of the comprehensive state mine rescue plan and a schedule for submittal of the final plan shall be submitted to the legislature on January 13, 1986.

Sec. 27. Section 6, chapter 178, Laws of 1951 as last amended by section 6, chapter 38, Laws of 1984 and RCW 38.52.050 are each amended to read as follows:

(1) The governor, through the director, shall have general supervision and control of the (~~(department of)~~) emergency management functions in the department, and shall be responsible for the carrying out of the provisions of this chapter, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the emergency management functions within this state.

(2) In performing his or her duties under this chapter, the governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation.

(3) In performing his or her duties under this chapter and to effect its policy and purpose, the governor is further authorized and empowered:

(a) To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government;

(b) On behalf of this state, to enter into mutual aid arrangements with other states and territories, or provinces of the Dominion of Canada and to coordinate mutual aid plans between political subdivisions of this state;

(c) To delegate any administrative authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(d) To appoint, with the advice of local authorities, metropolitan or regional area coordinators, or both, when practicable;

(e) To cooperate with the president and the heads of the armed forces, the emergency management agency of the United States, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation.

Sec. 28. Section 8, chapter 178, Laws of 1951 as last amended by section 7, chapter 38, Laws of 1984 and RCW 38.52.070 are each amended to read as follows:

(1) Each political subdivision of this state is hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program: PROVIDED, That a political subdivision proposing such establishment shall submit its plan and program for emergency management to the state director (~~(of emergency management)~~) and secure his or her recommendations thereon, and certification for consistency with the state comprehensive emergency management plan, in order that the plan of the local organization for emergency management may be coordinated with the plan and program of the state. No political subdivision may be required to include in its plan provisions for the emergency evacuation or relocation of residents in anticipation of nuclear attack. If the director's recommendations are adverse to the plan as submitted, and, if the local organization does not agree to the director's recommendations for modification to the proposal, the matter shall be referred to the council for final action. The director (~~(of emergency management)~~) may authorize two or more political subdivisions to join in the establishment and operation of a local organization for emergency management as circumstances may warrant, in which case each political subdivision shall contribute to the cost of emergency management upon such fair and equitable basis as may be determined upon by the executive heads of the constituent subdivisions. If in any case the executive heads cannot agree upon the proper division of cost the matter shall be referred to the council for arbitration and its decision shall be final. When two or more political subdivisions join in the establishment and operation of a local organization for emergency management each shall pay its share of the cost into a special pooled fund to be administered by the treasurer of the most populous subdivision, which fund shall be known as the emergency management fund. Each local organization for emergency management shall have a director who shall be appointed by the executive head of the political subdivision, and who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such executive officer or officers. In the case of a jointly established and operated organization for emergency management, the director shall be appointed by the joint action of the executive heads of the constituent political subdivisions. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this chapter.

(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to

combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.

Sec. 29. Section 10, chapter 178, Laws of 1951 as last amended by section 9, chapter 38, Laws of 1984 and RCW 38.52.090 are each amended to read as follows:

(1) The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. The director of (~~the department of emergency management~~) community development shall adopt and distribute a standard form of contract for use by local organizations in understanding and carrying out said mutual aid arrangements.

(2) The director of (~~the department of emergency management~~) community development and the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. All such arrangements shall be pursuant to either of the compacts contained in subsection (2) (a) or (b) of this section.

(a) The legislature recognizes that the compact language contained in this subsection is inadequate to meet many forms of emergencies. For this reason, after June 7, 1984, the state may not enter into any additional compacts under this subsection (2)(a).

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

Article I. The purpose of this compact is to provide mutual aid among the States in meeting any emergency or disaster from enemy attack or other

cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the States that are parties hereto. The Directors of Civil Defense (Emergency Services) of all party States shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

Article 2. It shall be the duty of each party State to formulate civil defense plans and programs for application within such State. There shall be frequent consultation between the representatives of the States and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party States shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party State;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

Article 3. Any party State requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the State rendering aid may withhold resources to the extent necessary to provide reasonable protection for such State. Each party

State shall extend to the civil defense forces of any other party State, while operating within its State limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving State), duties, rights, privileges and immunities as if they were performing their duties in the State in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the civil defense authorities of the State receiving assistance.

Article 4. Whenever any person holds a license, certificate or other permit issued by any State evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party State to meet an emergency or disaster and such State shall give due recognition to such license, certificate or other permit as if issued in the State in which aid is rendered.

Article 5. No party State or its officers or employees rendering aid in another State pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other States party hereto, this instrument contains elements of a broad base common to all States, and nothing herein contained shall preclude any State from entering into supplementary agreements with another State or States. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Article 7. Each party State shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that State and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such State.

Article 8. Any party State rendering aid in another State pursuant to this compact shall be reimbursed by the party State receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests; provided, that any aiding State may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party State without charge or cost; and provided further that any two or more party States may enter into

supplementary agreements establishing a different allocation of costs as among those States. The United States Government may relieve the party State receiving aid from any liability and reimburse the party State supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the State and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party States and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party State receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party State of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster the party State of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Article 10. This compact shall be available to any State, territory or possession of the United States, and the District of Columbia. The term "State" may also include any neighboring foreign country or province or state thereof.

Article 11. The committee established pursuant to Article 1 of this compact may request the Civil Defense Agency of the United States Government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

Article 12. This compact shall become operative immediately upon its ratification by any State as between it and any other State or States so ratifying and shall be subject to approval by Congress unless prior Congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party States and with the Civil Defense Agency and other appropriate agencies of the United States Government.

Article 13. This compact shall continue in force and remain binding on each party State until the legislature or the Governor of such party State takes action to withdraw therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by the Governor of the party State desiring to withdraw to the Governors of all other party States.

Article 14. This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be effected thereby.

Article 15. (a) This Article shall be in effect only as among those states which have enacted it into law or in which the Governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this Article or in any supplementary agreement made in implementation thereof shall be construed to abridge, impair or supersede any other provision of this compact or any obligation undertaken by a State pursuant thereto, except that if its terms so provide, a supplementary agreement in implementation of this Article may modify, expand or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrences, circumstances and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements and procedures thereof shall apply to:

1. Searches for and rescue of person who are lost, marooned, or otherwise in danger.
2. Action useful in coping with disasters arising from any cause or designed to increase the capability to cope with any such disasters.
3. Incidents, or the imminence thereof, which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger numbers than are locally available in order to reduce, counteract or remove the danger.
4. The giving and receiving of aid by subdivisions of party States.
5. Exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact or a supplementary agreement in force pursuant thereto, any aid authorized by this compact or such supplementary agreement may be furnished by any agency of a party State, a subdivision of such State, or by a joint agency providing such aid shall be entitled to reimbursement therefor to the same extent and in the same manner as a State. The personnel of such a joint agency, when rendering aid pursuant to this compact shall have the same rights, authority and immunity as personnel of party States.

(d) Nothing in this Article shall be construed to exclude from the coverage of Articles 1-15 of this compact any matter which, in the absence of this Article, could reasonably be construed to be covered thereby.

(b) The compact language contained in this subsection (2)(b) is intended to deal comprehensively with emergencies requiring assistance from other states.

INTERSTATE MUTUAL AID COMPACT

Purpose

The purpose of this Compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster, that over extends the ability of local and state governments to reduce, counteract or remove the danger. Assistance may include, but not be limited to, rescue, fire, police, medical, communication, transportation services and facilities to cope with problems which require use of special equipment, trained personnel or personnel in large numbers not locally available.

Authorization

Article I, Section 10 of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of Title 50 U.S.C. Sections 2281(g), 2283 and the Executive Department, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster and civil defense mutual aid agreements or pacts.

Implementation

It is agreed by participating states that the following conditions will guide implementation of the Compact:

1. Participating states through their designated officials are authorized to request and to receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency, and other resources are not immediately available.

2. Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it shall be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, personnel or other resources needed. Each request must be signed by an authorized official.

3. Personnel and equipment of the aiding party made available to the requesting party shall, whenever possible, remain under the control and direction of the aiding party. The activities of personnel and equipment of the aiding party must be coordinated by the requesting party.

4. An aiding state shall have the right to withdraw some or all of their personnel and/or equipment whenever the personnel or equipment are

needed by that state. Notice of intention to withdraw should be communicated to the requesting party as soon as possible.

General Fiscal Provisions

The state government of the requesting party shall reimburse the state government of the aiding party. It is understood that reimbursement shall be made as soon as possible after the receipt by the requesting party of an itemized voucher requesting reimbursement of costs.

1. Any party rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.

2. Any state rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for the cost of payment of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives in the event such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement, provided that such payments are made in the same manner and on the same terms as if the injury or death were sustained within such state.

Privileges and Immunities

1. All privileges and immunities from liability, exemptions from law, ordinances, rules, all pension, relief disability, workmen's compensation, and other benefits which apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extra-territorially under the provisions of this Agreement.

2. All privileges and immunities from liability, exemptions from law, ordinances, and rules, workmen's compensation and other benefits which apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits, shall apply to the same degree and extent while performing their functions extra-territorially under the provisions of this Agreement. Volunteers may include, but not be limited to, physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

3. The signatory states, their political subdivisions, municipal corporations and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other state with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

4. Nothing in this arrangement shall be construed as repealing or impairing any existing Interstate Mutual Aid Agreements.

5. Upon enactment of this Agreement by two or more states, and by January 1, annually thereafter, the participating states will exchange with

each other the names of officials designated to request and/or provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it shall be permissible and desirable for the parties to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

6. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

7. This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until the thirtieth consecutive day after the notice provided in the statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal.

Sec. 30. Section 20, chapter 178, Laws of 1951 as last amended by section 16, chapter 38, Laws of 1984 and RCW 38.52.170 are each amended to read as follows:

Whenever the ~~((state))~~ director ~~((of emergency management))~~ finds that it will be in the interest of the emergency management of this state or of the United States, ~~((he))~~ the director may, with the approval of the governor, agree with the federal government, or any agency thereof carrying on activities within this state, upon a plan of emergency management applicable to a federally owned area, which plan may or may not conform to all of the other provisions of this chapter with the view to integrating federally owned areas into the comprehensive plan and program of the emergency management of this state. Such plan may confer upon persons carrying out such plan any or all of the rights, powers, privileges and immunities granted employees or representatives of the state and/or its political subdivisions by this chapter. The plan of emergency management authorized under this section may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

Sec. 31. Section 5, chapter 8, Laws of 1971 ex. sess. as last amended by section 22, chapter 38, Laws of 1984 and RCW 38.52.207 are each amended to read as follows:

The director ~~((of the state department of emergency management))~~, with the approval of the attorney general, may consider, ascertain, adjust, determine, compromise and settle property loss or damage claims arising out of conduct or circumstances for which the state of Washington would be liable in law for money damages of two thousand dollars or less. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant; and upon the state of

Washington, unless procured by fraud, and shall constitute a complete release of any claim against the state of Washington. A request for administrative settlement shall not preclude a claimant from filing court action pending administrative determination, or limit the amount recoverable in such a suit, or constitute an admission against interest of either the claimant or the state.

Sec. 32. Section 4, chapter 223, Laws of 1953 as last amended by section 23, chapter 38, Laws of 1984 and RCW 38.52.210 are each amended to read as follows:

(1) In each local organization for emergency management established by the legislative authority of the county in accordance with the provisions of RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of: (a) The county executive if the county has an elected county executive or, if it does not, one member of the county legislative authority selected by the authority. The executive or the member will serve as the chair of the compensation board; (b) the county director of emergency services; (c) the prosecuting attorney; (d) the emergency services coordinator for medical and health services; and (e) the county auditor who will serve as secretary of the compensation board.

(2) In each local organization for emergency management established by cities and towns in accordance with RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of the mayor; the city director of emergency management; one councilmember or commissioner selected by the council or the commission; the city attorney or corporation counsel; and the local coordinator of medical and health services. The councilmember or commissioner so selected shall serve as the chair of the compensation board and the city director of emergency management shall serve as secretary of the board.

Sec. 33. Section 7, chapter 223, Laws of 1953 as last amended by section 25, chapter 38, Laws of 1984 and RCW 38.52.240 are each amended to read as follows:

The compensation board shall hear and decide all applications for compensation under this chapter. The board shall submit its recommendations to the director (~~(of the department of emergency management)~~) on such forms as he or she may prescribe. In case the decision of the director is different from the recommendation of the compensation board, the matter shall be submitted to the state emergency management council for action.

Sec. 34. Section 8, chapter 223, Laws of 1953 as last amended by section 26, chapter 38, Laws of 1984 and RCW 38.52.250 are each amended to read as follows:

A majority of the compensation board shall constitute a quorum, and no business shall be transacted when a majority is not present, and no claim shall be allowed when a majority of the board has not voted favorably thereon.

The board shall send a copy of the minutes of all meetings to the department (~~(of emergency management)~~) with copies of all material pertaining to each claim submitted and noting the action of the board on each claim. Appeals may be made by the emergency worker from any action by the board within one year by writing to the department (~~(of emergency management)~~).

Sec. 35. Section 14, chapter 223, Laws of 1953 as last amended by section 31, chapter 38, Laws of 1984 and RCW 38.52.300 are each amended to read as follows:

If the injury to an emergency worker is due to the negligence or wrong of another not on emergency duty, the injured worker, or if death results from the injury, the surviving spouse, children, parents or dependents, as the case may be, shall elect whether to take under this chapter or seek a remedy against such other, such election to be in advance of any suit under this chapter; and if the surviving spouse takes under this chapter, the cause of action against such other shall be assigned to the department (~~(of emergency management)~~); if the other choice is made, the compensation under this chapter shall be only the deficiency, if any, between the amount of recovery against such third person actually collected, and the compensation provided or estimated for such case under authority of this chapter: PROVIDED, That the department (~~(of emergency management)~~) shall prosecute all claims assigned to it and do any and all things necessary to recover on behalf of the state any and all amounts which an employer or insurance carrier might recover under the provisions of the law.

Sec. 36. Section 15, chapter 223, Laws of 1953 as last amended by section 32, chapter 38, Laws of 1984 and RCW 38.52.310 are each amended to read as follows:

The department (~~(of emergency management)~~) shall establish by rule and regulation various classes of emergency workers, the scope of the duties of each class, and the conditions under which said workers shall be deemed to be on duty and covered by the provisions of this chapter. The department shall also adopt rules and regulations prescribing the manner in which emergency workers of each class are to be registered.

Sec. 37. Section 16, chapter 223, Laws of 1953 as last amended by section 33, chapter 38, Laws of 1984 and RCW 38.52.320 are each amended to read as follows:

The department (~~(of emergency management)~~) shall provide each compensation board with the approved maximum schedule of payments for injury or death prescribed in chapter 51.32 RCW: PROVIDED, That

nothing in this chapter shall be construed as establishing any liability on the part of the department of labor and industries.

Sec. 38. Section 17, chapter 223, Laws of 1953 as last amended by section 34, chapter 38, Laws of 1984 and RCW 38.52.330 are each amended to read as follows:

The department (~~(of emergency management)~~) is authorized to make all expenditures necessary and proper to carry out the provisions of this chapter including payments to claimants for compensation as emergency workers and their dependents; to adjust and dispose of all claims submitted by a local compensation board. When medical treatment is necessary, the department (~~(of emergency management)~~) is authorized to make medical and compensation payments on an interim basis. Nothing herein shall be construed to mean that the department (~~(of emergency management)~~) or the state emergency management council or its officers or agents shall have the final decision with respect to the compensability of any case or the amount of compensation or benefits due, but any emergency worker or his or her dependents shall have the same right of appeal from any order, decision, or award to the same extent as provided in chapter 51.32 RCW (~~(as amended by this 1971 amendatory act)~~).

Sec. 39. Section 18, chapter 223, Laws of 1953 as last amended by section 35, chapter 38, Laws of 1984 and RCW 38.52.340 are each amended to read as follows:

Nothing in this chapter shall deprive any emergency worker or his or her dependents of any right to compensation for injury or death sustained in the course of his or her regular employment even though his or her regular work is under direction of emergency management authorities: PROVIDED, That such worker, if he or she is eligible for some other compensation plan, and receives the benefits of such plan shall not also receive any compensation under this chapter. The department (~~(of emergency management)~~) shall adopt such rules and regulations as may be necessary to protect the rights of such workers and may enter into agreements with authorities in charge of other compensation plans to insure protection of such workers: PROVIDED, That if the compensation from some other plan is less than would have been available under this chapter, he or she shall be entitled to receive the deficiency between the amount received under such other plan and the amount available under this chapter.

Sec. 40. Section 20, chapter 223, Laws of 1953 as last amended by section 37, chapter 38, Laws of 1984 and RCW 38.52.360 are each amended to read as follows:

If, in addition to monetary assistance, benefits or other temporary or permanent relief, the United States or any agent thereof furnishes medical, surgical or hospital treatment or any combination thereof to an injured

emergency worker, then the emergency worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter. However, the department (~~(of emergency management)~~) may furnish medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter.

Sec. 41. Section 21, chapter 223, Laws of 1953 as last amended by section 38, chapter 38, Laws of 1984 and RCW 38.52.370 are each amended to read as follows:

If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States or any agent thereof, will reimburse an emergency worker or his or her dependents for medical, surgical or hospital treatment, or any combination thereof, furnished to the injured emergency worker, the emergency worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter, but the department (~~(of emergency management)~~), may furnish a medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter and apply to the United States or its agent for the reimbursement which will be made to the emergency worker or his or her dependents. As a condition to the furnishing of such medical, surgical or hospital treatment, the department shall require the emergency worker and his dependents to assign to the state of Washington, for the purpose of reimbursing for any medical, surgical or hospital treatment furnished or to be furnished by the state, any claim or right such emergency worker or his or her dependents may have to reimbursement from the United States or any agent thereof.

Sec. 42. Section 6, chapter 8, Laws of 1971 ex. sess. as amended by section 40, chapter 38, Laws of 1984 and RCW 38.52.390 are each amended to read as follows:

The governor, or upon his or her direction, the (~~(state emergency management)~~) director, or any political subdivision of the state, is authorized to contract with any person, firm, corporation, or entity to provide construction or work on a cost basis to be used in emergency management functions or activities as defined in RCW 38.52.010(1) or as hereafter amended, said functions or activities to expressly include natural disasters, as well as all other emergencies of a type contemplated by RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390. All funds received for purposes of RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390, whether appropriated funds, local funds, or from whatever source, may be used to pay for the construction, equipment, or work contracted for under this section.

Sec. 43. Section 4, chapter 268, Laws of 1979 ex. sess. as amended by section 41, chapter 38, Laws of 1984 and RCW 38.52.400 are each amended to read as follows:

(1) The chief law enforcement officer of each political subdivision shall be responsible for local search and rescue activities. Operation of search and rescue activities shall be in accordance with state and local operations plans adopted by the elected governing body of each local political subdivision. The local emergency management director shall notify the ~~((state))~~ department ~~((of emergency management))~~ of all search and rescue missions. The local director of emergency management shall work in a coordinating capacity directly supporting all search and rescue activities in that political subdivision and in registering emergency search and rescue workers for employee status. The chief law enforcement officer of each political subdivision may restrict access to a specific search and rescue area to personnel authorized by him. Access shall be restricted only for the period of time necessary to accomplish the search and rescue mission. No unauthorized person shall interfere with a search and rescue mission.

(2) When search and rescue activities result in the discovery of a deceased person or search and rescue workers assist in the recovery of human remains, the chief law enforcement officer of the political subdivision shall insure compliance with chapter 68.08 RCW.

Sec. 44. Section 5, chapter 268, Laws of 1979 ex. sess. as amended by section 42, chapter 38, Laws of 1984 and RCW 38.52.410 are each amended to read as follows:

Funds received by the department ~~((of emergency management))~~ specifically for the purposes of compensating search and rescue volunteers shall be distributed by the director ~~((of emergency management))~~ to help fund medical and compensation coverage provided by this chapter and provide reimbursement by the state for: (1) Costs involved in extraordinary search and rescue operations such as search and rescue operations lasting over twenty-four hours where food and lodging for workers is necessary; (2) excessive transportation and rescue costs incurred by out-of-county residents which would not be otherwise collectible; and (3) compensation as provided in RCW 38.52.020(1)(d) as now or hereafter amended.

Sec. 45. Section 2, chapter 241, Laws of 1963 as last amended by section 106, chapter 7, Laws of 1985 and RCW 40.10.020 are each amended to read as follows:

The state archivist is authorized to reproduce those documents designated as essential records by the several elected and appointed officials of the state and local government by microfilm or other miniature photographic process and to assist and cooperate in the storage and safeguarding of such reproductions in such place as is recommended by the state archivist with the advice of the director of ~~((emergency management))~~ community development. The state archivist shall coordinate the essential records protection program and shall carry out the provisions of the state emergency plan as they relate to the preservation of essential records. The state archivist is authorized to charge the several departments of the state and local

government the actual cost incurred in reproducing, storing and safeguarding such documents: PROVIDED, That nothing herein shall authorize the destruction of the originals of such documents after reproduction thereof.

***Sec. 46. Section 22, chapter 91, Laws of 1983 and RCW 43.131.313 are each amended to read as follows:**

The state capital historical association, the eastern Washington state historical society, the Washington state historical society, the office of archaeology and historic preservation within the department of community development, the advisory council on historic preservation, and the Washington state heritage council, and their powers and duties, shall be terminated on June 30, 1993, as provided in RCW 43.131.314.

*Sec. 46 was vetoed, see message at end of chapter.

***Sec. 47. Section 23, chapter 91, Laws of 1983 and RCW 43.131.314 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, 1994:

- (1) *Section 1, chapter 91, Laws of 1983 and RCW 27.34.010;*
- (2) *Section 2, chapter 91, Laws of 1983, section 9 of this 1986 act and RCW 27.34.020;*
- (3) *Section 3, chapter 91, Laws of 1983 and RCW 27.34.030;*
- (4) *Section 4, chapter 91, Laws of 1983 and RCW 27.34.040;*
- (5) *Section 5, chapter 91, Laws of 1983 and RCW 27.34.050;*
- (6) *Section 6, chapter 91, Laws of 1983 and RCW 27.34.060;*
- (7) *Section 7, chapter 91, Laws of 1983 and RCW 27.34.070;*
- (8) *Section 8, chapter 91, Laws of 1983 and RCW 27.34.080;*
- (9) *Section 9, chapter 91, Laws of 1983 and RCW 27.34.090;*
- (10) *Section 10, chapter 91, Laws of 1983 and RCW 27.34.200;*
- (11) *Section 11, chapter 91, Laws of 1983, section 10 of this 1986 act and RCW 27.34.210;*
- (12) *Section 12, chapter 91, Laws of 1983, section 11 of this 1986 act and RCW 27.34.220;*
- (13) *Section 13, chapter 91, Laws of 1983, section 12 of this 1986 act and RCW 27.34.230;*
- (14) *Section 14, chapter 91, Laws of 1983, section 13 of this 1986 act and RCW 27.34.240;*
- (15) *Section 15, chapter 91, Laws of 1983 and RCW 27.34.250;*
- (16) *Section 16, chapter 91, Laws of 1983, section 15 of this 1986 act and RCW 27.34.280;*
- (17) *Section 17, chapter 91, Laws of 1983, section 14 of this 1986 act and RCW 27.34.270;*
- (18) *Section 18, chapter 91, Laws of 1983 and RCW 27.34.260; and*
- (19) *Section 19, chapter 91, Laws of 1983 and RCW 27.34.290.*

*Sec. 47 was vetoed, see message at end of chapter.

Sec. 48. Section 7, chapter 40, Laws of 1983 1st ex. sess. as amended by section 110, chapter 7, Laws of 1985 and by section 7, chapter 230, Laws of 1985 and RCW 43.220.070 are each reenacted and amended to read as follows:

(1) Conservation corps members shall be unemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States. The age requirements may be waived for corps leaders and specialists with special leadership or occupational skills; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. Special effort shall be made to recruit minority and disadvantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.

(2) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew leaders, who shall be project employees, and the administrative and supervisory personnel.

(3) Enrollment shall be for a period of six months which may be extended for an additional six months by mutual agreement of the corps and the corps member. Corps members shall be reimbursed at the minimum wage rate established by federal law: PROVIDED, That if agencies elect to run a residential program, the appropriate costs for room and board shall be deducted from the corps member's paycheck as provided in chapter 43.220 RCW.

(4) Corps members are to be available at all times for emergency response services coordinated through the department of (~~emergency management~~) community development or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies.

Sec. 49. Section 46.16.340, chapter 12, Laws of 1961 as last amended by section 112, chapter 7, Laws of 1985 and RCW 46.16.340 are each amended to read as follows:

The director, from time to time, shall furnish the state department of (~~emergency management~~) community development, the Washington state patrol, and all county sheriffs a list of the names, addresses, and license plate or radio station call letters of each person possessing the special amateur radio station license plates so that the facilities of such radio stations may be utilized to the fullest extent in the work of these governmental agencies.

Sec. 50. Section 4, chapter 172, Laws of 1982 as last amended by section 132, chapter 7, Laws of 1985 and RCW 70.136.030 are each amended to read as follows:

The governing body of each applicable political subdivision of this state may designate a hazardous materials incident command agency within its respective boundaries, and file this designation with the director of (~~emergency management or its successor agency~~) community development. In designating an incident command agency, the political subdivision shall consider the training, manpower, expertise, and equipment of various available agencies as well as the Uniform Fire Code and other existing codes and regulations. Along state and interstate highway corridors, the Washington state patrol shall be the designated incident command agency unless by mutual agreement that role has been assumed by another designated incident command agency.

Sec. 51. Section 151, chapter 7, Laws of 1985 as amended by section 1, chapter 67, Laws of 1985 and by section 71, chapter 466, Laws of 1985 and RCW 80.50.030 are each reenacted and amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2) (a) The chairman of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chairman may designate a member of the council to serve as acting chairman in the event of the chairman's absence. The salary of the chairman shall be determined under RCW 43.03.040. The chairman is a "state employee" for the purposes of chapter 42.18 RCW.

(b) The chairman is the chief executive officer of the council and shall, with the concurrence of the council, execute all official documents, contracts, and other materials on behalf of the council. The chairman shall appoint an executive secretary to serve at the pleasure of the chairman. The chairman may appoint a confidential secretary to serve at the pleasure of the chairman. The chairman shall appoint and prescribe the duties of such clerks, employees, and agents as may be necessary to carry out this chapter: PROVIDED, That such persons shall be employed pursuant to chapter 41.06 RCW.

(3) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (a) Department of ecology;
- (b) Department of fisheries;
- (c) Department of game;
- (d) Department of parks and recreation;
- (e) Department of social and health services;

- (f) State energy office;
- (g) Department of trade and economic development;
- (h) Utilities and transportation commission;
- (i) Office of financial management;
- (j) Department of natural resources;
- (k) Department of community development;
- (l) ~~((Department of emergency management;~~
- ~~(m)))~~ Department of agriculture;
- ~~((n)))~~ (m) Department of transportation.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site;

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

NEW SECTION. Sec. 52. RCW 27.34.905 is decodified.

NEW SECTION. Sec. 53. Section 19, chapter 91, Laws of 1983 and RCW 27.34.290 are each repealed.

FIRE PROTECTION BOARD

NEW SECTION. Sec. 54. A new section is added to chapter 43.63A RCW to read as follows:

The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. It is the intent of the legislature to consolidate fire protection services into a single state agency and to create a state board with the

responsibility of (1) establishing a comprehensive state policy regarding fire protection services and (2) advising the director of community development and the director of fire protection on matters relating to their duties under state law. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy.

***NEW SECTION.** Sec. 55. A new section is added to chapter 43.63A RCW to read as follows:

There is created the state fire protection policy board consisting of ten members appointed by the governor:

(1) Three representatives of fire chiefs. At least one shall be from a fire department east of the Cascade mountains and at least one shall be from a fire department west of the Cascade mountains. One shall be from a fire protection district;

- (2) One insurance industry representative;
- (3) One representative of cities and towns;
- (4) One representative of counties;
- (5) Two full-time, paid, career fire fighters;
- (6) One volunteer fire fighter; and
- (7) One representative of fire commissioners.

The governor, the commissioner of public lands, the insurance commissioner, the chairperson of the commission for vocational education or its successor organization, and the director of fire protection or their designees, shall be nonvoting ex officio members of the board. If an ex officio member of the board elects to send a designee to any or all meetings of the board, then that designee shall be selected from the immediate staff of that ex officio member and may not be a person who otherwise serves as a member of the board.

In making the appointments required under subsections (1) through (7) of this section, the governor shall (a) seek the advice of and consult with organizations involved in fire protection; and (b) ensure that racial minorities, women, and persons with disabilities are represented.

The terms of the appointed members of the board shall be three years and until a successor is appointed and qualified. However, initial board members shall be appointed as follows: Three members to terms of one year, three members to terms of two years, and four members to terms of three years. In the case of a vacancy of a member appointed under subsections (1) through (7) of this section, the governor shall appoint a new representative to fill the unexpired term of the member whose office has become vacant. A vacancy shall occur whenever an appointed member ceases to be employed in the occupation the member was appointed to represent.

The appointed members of the board shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

The board shall select its own chairperson and shall meet at the request of the governor or the chairperson and at least four times per year.

*Sec. 55 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 56. A new section is added to chapter 43.63A RCW to read as follows:

Except for matters relating to the statutory duties of the director of community development which are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

- (1) Adopt a state fire protection master plan;
- (2) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens;
- (3) Establish and promote state arson control programs and ensure development of local arson control programs;
- (4) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials;
- (5) Seek and solicit grants, gifts, bequests, devices, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;
- (6) Promote mutual aid and disaster planning for fire services in this state;
- (7) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention;
- (8) Submit annually a report to the governor containing a statement of its official acts pursuant to this chapter, and make such studies, reports, and recommendations to the governor and the legislature as are requested;
- (9) Adopt a state fire training and education master plan;
- (10) Develop and adopt a master plan for the construction, equipping, maintaining, and operation of necessary fire service training and education facilities, but the authority to construct, equip, and maintain such facilities is subject to chapter 43.19 RCW;
- (11) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary to establish and operate fire service training and education facilities in a manner provided by law;
- (12) Adopt standards for state-wide fire service training and education courses including courses in arson detection and investigation for personnel of fire, police, and prosecutor's departments;
- (13) Assure the administration of any legislation enacted by the legislature in pursuance of the aims and purposes of any acts of Congress insofar as the provisions thereof may apply;

(14) Cooperate with the common schools, community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of Congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

This section does not apply to forest fire service personnel and programs. Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule.

NEW SECTION. Sec. 57. A new section is added to chapter 43.63A RCW to read as follows:

In regards to the statutory duties of the director of community development which are to be carried out through the director of fire protection, the board shall serve in an advisory capacity in order to enhance the continuity of state fire protection services. In this capacity, the board shall:

(1) Advise the director of community development and the director of fire protection on matters pertaining to their duties under law; and

(2) Advise the director of community development and the director of fire protection on all budgeting and fiscal matters pertaining to the duties of the director of fire protection and the board.

NEW SECTION. Sec. 58. A new section is added to chapter 43.63A RCW to read as follows:

(1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The director of community development shall appoint an assistant director who shall be known as the director of fire protection. The board, after consulting with the director, shall prescribe qualifications for the position of director of fire protection. The board shall submit to the director a list containing the names of three persons whom the board believes meet its qualifications. If requested by the director, the board shall submit one additional list of three persons whom the board believes meet its qualifications. The appointment shall be from one of the lists of persons submitted by the board.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of community development, through the director of fire protection, shall, after consultation with the board, prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the department's budget request.

(5) The director of community development, through the director of fire protection, shall implement and administer, within the constraints established by budgeted resources, the policies of the board and all duties of the director of community development which are to be carried out through the director of fire protection.

(6) The director of community development, through the director of fire protection, shall seek the advice of the board in carrying out his or her duties under law.

NEW SECTION. Sec. 59. A new section is added to chapter 43.63A RCW to read as follows:

The department may accept any and all donations, grants, bequests, and devices, conditional or otherwise, or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the fire service training program established in section 56 of this act.

NEW SECTION. Sec. 60. A new section is added to chapter 43.63A RCW to read as follows:

The department may: (1) Impose and collect fees for fire service training; and (2) establish and set fee schedules for fire service training.

NEW SECTION. Sec. 61. A new section is added to chapter 43.63A RCW to read as follows:

The fire service training account is hereby established in the state treasury. The department shall deposit in the account all fees received by the department for fire service training. Moneys in the account may be appropriated only for fire service training.

Sec. 62. Section 1, chapter 349, Laws of 1977 ex. sess. as amended by section 12, chapter 470, Laws of 1985 and RCW 28C.50.010 are each amended to read as follows:

For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, furnishing and equipping of a state fire service training center for the ((state fire protection board)) department of community development, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

Sec. 63. Section 5, chapter 349, Laws of 1977 ex. sess. as amended by section 13, chapter 470, Laws of 1985 and RCW 28C.50.050 are each amended to read as follows:

The 1977 state fire service training center bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the ~~((state fire protection board))~~ department of community development.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 state fire service training center bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

Sec. 64. Section 1, chapter 225, Laws of 1979 ex. sess. as last amended by section 14, chapter 470, Laws of 1985 and RCW 28C.51.010 are each amended to read as follows:

For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, furnishing and equipping of a state fire service training center for the ~~((state fire protection board))~~ department of community development, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of six million dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

Sec. 65. Section 5, chapter 225, Laws of 1979 ex. sess. as amended by section 15, chapter 470, Laws of 1985 and RCW 28C.51.050 are each amended to read as follows:

The 1977 state fire service training center bond retirement fund in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds and notes authorized under this chapter or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the ~~((state fire protection board))~~ department of community development.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and

deposit in the 1977 state fire service training center bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Sec. 66. Section .05.32, chapter 79, Laws of 1947 as amended by section 16, chapter 470, Laws of 1985 and RCW 48.05.320 are each amended to read as follows:

(1) Each authorized insurer shall promptly report to the ~~((state fire protection board))~~ director of community development, through the director of fire protection, upon forms as prescribed and furnished by ~~((the board))~~ him or her, each fire loss of property in this state reported to it and whether the loss is due to criminal activity or to undetermined causes.

(2) Each such insurer shall likewise report to the ~~((board))~~ director of community development, through the director of fire protection, upon claims paid by it for loss or damage by fire in this state. Copies of all reports required by this section shall be promptly transmitted to the state insurance commissioner.

Sec. 67. Section .33.03, chapter 79, Laws of 1947 as amended by section 17, chapter 470, Laws of 1985 and RCW 48.48.030 are each amended to read as follows:

(1) The ~~((state fire protection board, through the state fire marshal or any deputy state fire marshal,))~~ director of community development, through the director of fire protection or his or her authorized deputy, shall have authority at all times of day and night, in the performance of duties imposed by this chapter, to enter upon and examine any building or premises where any fire has occurred and other buildings and premises adjoining or near thereto.

(2) The ~~((state fire protection board, through the state fire marshal or any deputy state fire marshal,))~~ director of community development, through the director of fire protection or his or her authorized deputy, shall have authority at any reasonable hour to enter into any public building or premises or any building or premises used for public purposes to inspect for fire hazards.

~~((3) Within his or her jurisdiction a resident fire marshal may exercise like powers as are conferred by subsections (1) and (2) of this section upon the state fire protection board. Such power in a resident fire marshal shall not be to the exclusion of any power of the state fire protection board.))~~

Sec. 68. Section .33.04, chapter 79, Laws of 1947 as amended by section 18, chapter 470, Laws of 1985 and RCW 48.48.040 are each amended to read as follows:

(1) ~~((In jurisdictions within this state other than those in which there is in force a comprehensive local fire prevention and safety code, the state fire protection board, through the state fire marshal or any deputy fire marshal,))~~ The director of community development, through the director of fire

protection or his or her authorized deputy, shall have authority to enter upon all premises and into all buildings except private dwellings for the purpose of inspection to ascertain if any fire hazard exists, and to require conformance with minimum standards for the prevention of fire and for the protection of life and property against fire and panic as to use of premises, and may adopt by reference nationally recognized standards applicable to local conditions.

(2) ~~((A resident fire marshal shall have authority to enforce within his or her jurisdiction such ordinances and laws relative to fire prevention and safety and use of premises as may be in force therein. In areas outside those covered by such local fire prevention and safety codes, the jurisdiction of any such resident fire marshal shall be subordinate to that of the state fire protection board.~~

(3) ~~In areas covered by such fire prevention and safety codes the state fire protection board))~~ The director of community development, through the director of fire protection or his or her authorized deputy, may, upon request by the chief fire official or the local governing body or of taxpayers of such area, assist in the enforcement of any such code.

Sec. 69. Section 1, chapter 70, Laws of 1972 ex. sess. as last amended by section 19, chapter 470, Laws of 1985 and RCW 48.48.045 are each amended to read as follows:

Standards for construction relative to fire prevention and safety for all schools under the jurisdiction of the superintendent of public instruction and state board of education shall be established by the state fire protection board~~((, which))~~. The director of community development, through the director of fire protection, shall adopt such nationally recognized fire and building codes and standards as may be applicable to local conditions. After the approval of such standards by the superintendent of public instruction and the state board of education, the ~~((state fire protection board))~~ director of community development, through the director of fire protection, shall make or cause to be made plan reviews and construction inspections as may be necessary to insure compliance with said codes and standards.

Political subdivisions of the state having and enforcing such fire and building codes and standards at least equal to or higher than those ~~((by the state fire protection board))~~ adopted as provided for in this section shall be exempted from the plan review and construction inspection provisions of this section within their respective subdivision for as long as such codes and standards are enforced.

Sec. 70. Section .33.05, chapter 79, Laws of 1947 as amended by section 20, chapter 470, Laws of 1985 and RCW 48.48.050 are each amended to read as follows:

(1) If the ~~((state fire marshal or the marshal's))~~ director of community development, through the director of fire protection or his or her authorized deputy, finds in any building or premises subject to their inspection under

this chapter, any combustible material or flammable conditions or fire hazards dangerous to the safety of the building, premises, or to the public, he or she shall by written order require such condition to be remedied, and such order shall forthwith be complied with by the owner or occupant of the building or premises.

(2) An owner or occupant aggrieved by any such order made by the ~~((state fire marshal or a deputy state fire marshal))~~ director of community development, through the director of fire protection or his or her deputy, may ~~((within five days after the date of the order appeal to the state fire protection board))~~ appeal such order pursuant to chapter 34.04 RCW. If the ~~((state fire protection board confirms the))~~ order is confirmed, the order shall remain in force and be complied with by the owner or occupant.

(3) Any owner or occupant failing to comply with any such order not appealed from or with any order so confirmed shall be punishable by a fine of not less than ten dollars nor more than fifty dollars for each day such failure exists.

Sec. 71. Section .33.06, chapter 79, Laws of 1947 as last amended by section 21, chapter 470, Laws of 1985 and RCW 48.48.060 are each amended to read as follows:

(1) The chief of each organized fire department, the sheriff or other designated county official, and the designated city or town official shall investigate the cause, origin, and extent of loss of all fires occurring within their respective jurisdictions, as determined by this subsection, and shall forthwith notify the ~~((state fire protection board))~~ director of community development, through the director of fire protection, of all fires of criminal, suspected, or undetermined cause occurring within their respective jurisdictions. The county fire marshal shall also be notified of and investigate all such fires occurring in unincorporated areas of the county. Fire departments shall have the responsibility imposed by this subsection for areas within their jurisdictions. Sheriffs or other designated county officials shall have responsibility imposed by this subsection for county areas not within the jurisdiction of a fire department, unless such areas are within the boundaries of a city or town, in which case the designated city or town official shall have the responsibility imposed by this subsection. For the purposes of this subsection, county officials shall be designated by the county legislative authority, and city or town officials shall be designated by the appropriate city or town legislative or executive authority. In addition to the responsibility imposed by this subsection, any sheriff or chief of police may assist in the investigation of the cause, origin, and extent of loss of all fires occurring within his or her respective jurisdiction.

(2) The ~~((state fire protection board))~~ director of community development, through the director of fire protection or his or her deputy, may investigate any fire for the purpose of determining its cause, origin, and the extent of the loss. The ~~((state fire protection board))~~ director of community

development, through the director of fire protection or his or her deputy, shall assist in the investigation of those fires of criminal, suspected, or undetermined cause when requested by the reporting agency. In the investigation of any fire of criminal, suspected, or undetermined cause, the ((state fire protection board, the state fire marshal, deputy state fire marshals, or resident fire marshals, acting within their jurisdiction, are)) director of community development and the director of fire protection or his or her deputy, are vested with police powers to enforce the laws of this state. To exercise these powers, ((state deputy and resident fire marshals)) authorized deputies must receive prior written authorization from the ((state fire protection board)) director of community development, through the director of fire protection, and shall have completed a course of training prescribed by the Washington state criminal justice training commission.

Sec. 72. Section 2, chapter 181, Laws of 1980 as amended by section 22, chapter 470, Laws of 1985 and RCW 48.48.065 are each amended to read as follows:

(1) ~~((Beginning September 1, 1980,))~~ The chief of each organized fire department, or the sheriff or other designated county official having jurisdiction over areas not within the jurisdiction of any fire department, shall report statistical information and data to the ((state fire protection board)) director of community development, through the director of fire protection, on each fire occurring within the official's jurisdiction. Reports shall be consistent with the national fire incident reporting system developed by the United States fire administration and rules established by the ((state fire marshal)) director of community development, through the director of fire protection. The ((state fire protection board)) director of community development, through the director of fire protection, and the department of natural resources shall jointly determine the statistical information to be reported on fires on land under the jurisdiction of the department of natural resources.

(2) The ((state fire protection board)) director of community development, through the director of fire protection, shall analyze the information and data reported, compile a report, and distribute a copy annually by January 31 to each chief fire official in the state. Upon request, the ((state fire protection board)) director of community development, through the director of fire protection, shall also furnish a copy of the report to any other interested person at cost.

Sec. 73. Section .33.07, chapter 79, Laws of 1947 as amended by section 23, chapter 470, Laws of 1985 and RCW 48.48.070 are each amended to read as follows:

In the conduct of any investigation into the cause, origin, or loss resulting from any fire, the ((state fire protection board)) director of community development and the director of fire protection shall have the same power and rights relative to securing the attendance of witnesses and the

taking of testimony under oath as is conferred upon the insurance commissioner under RCW 48.03.070. False swearing by any such witness shall be deemed to be perjury and shall be subject to punishment as such.

Sec. 74. Section .33.08, chapter 79, Laws of 1947 as amended by section 24, chapter 470, Laws of 1985 and RCW 48.48.080 are each amended to read as follows:

If as the result of any such investigation, or because of any information received (~~by it, the state fire protection board~~), the director of community development, through the director of fire protection, is of the opinion that there is evidence sufficient to charge any person with any crime, ((it)) he or she may cause such person to be arrested and charged with such offense, and shall furnish to the prosecuting attorney of the county in which the offense was committed, the names of witnesses and all pertinent and material evidence and testimony within ((its)) his or her possession relative to the offense.

Sec. 75. Section .33.09, chapter 79, Laws of 1947 as amended by section 25, chapter 470, Laws of 1985 and RCW 48.48.090 are each amended to read as follows:

The (~~state fire protection board~~) director of community development, through the director of fire protection, shall keep on file all reports of fires made to (~~it or to the commissioner~~) him or her pursuant to this code. Such records shall at all times during business hours be open to public inspection; except, that any testimony taken in a fire investigation may, in the discretion of the (~~state fire protection board~~) director of community development, through the director of fire protection, be withheld from public scrutiny. The (~~state fire protection board~~) director of community development, through the director of fire protection, may destroy any such report after five years from its date.

Sec. 76. Section .33.11, chapter 79, Laws of 1947 as last amended by section 26, chapter 470, Laws of 1985 and RCW 48.48.110 are each amended to read as follows:

The (~~state fire protection board~~) director of community development, through the director of fire protection, shall submit annually a report to the governor of this state. The report shall contain a statement of ((its)) his or her official acts pursuant to this chapter.

Sec. 77. Section 2, chapter 80, Laws of 1979 ex. sess. as amended by section 27, chapter 470, Laws of 1985 and RCW 48.50.020 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) "Authorized agency" means a public agency or its official representative having legal authority to investigate the cause of a fire and to initiate criminal proceedings or further investigations if the cause was not accidental, including the following persons and agencies:

(a) The ~~((state fire protection board))~~ director of community development and the director of fire protection;

(b) The prosecuting attorney of the county where the fire occurred;

(c) The state attorney general, when engaged in a prosecution which is or may be connected with the fire;

(d) The Federal Bureau of Investigation, or any other federal agency; and

(e) The United States attorney's office when authorized or charged with investigation or prosecution concerning the fire.

(2) "Insurer" means any insurer, as defined in RCW 48.01.050, which insures against loss by fire, and includes insurers under the Washington F.A.I.R. plan.

(3) "Relevant information" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the cause of any fire more probable or less probable than it would be without the information.

Sec. 78. Section 4, chapter 174, Laws of 1975 1st ex. sess. as last amended by section 89, chapter 370, Laws of 1985 and RCW 28C.04.040 are each amended to read as follows:

The commission for vocational education shall have the following functions:

(1) Plan development. The commission shall be responsible for complying with federal directives to insure the development and maintenance of a state plan for vocational education but initial planning shall be accomplished by the secondary and postsecondary education systems. Prior to the adoption of the state plan, the commission shall request comments from the higher education coordinating board and the advisory council for vocational education.

(2) State plan modification adjudication. Decisions on new programs and/or facilities for vocational education shall be made internally within the respective secondary or postsecondary education system in accordance with the provisions of the state plan. The commission may review such decisions to insure compliance with the state plan and avoid unnecessary duplication of current or projected programs.

Any common school or community college district, or the superintendent of public instruction, or the state board for community college education, or other interested parties as authorized by the commission, shall be afforded the opportunity to comment upon any new programs or facilities proposed. The commission, subject to dispute resolution rules adopted by

said commission, shall have the final determination on any disputes arising out of such program proposals.

In adjudicating disputes between the two secondary and postsecondary education systems regarding the state plan, the commission will use at least the following criteria: Recognition that secondary education is constitutionally the responsibility of the superintendent of public instruction and that by legislative action postsecondary education is the responsibility of institutions of higher education; adhere to the general policy set forth in the state plan; consider the particular vocational need of the community, region, or state and whether the common school or community college, or both, can best respond to those needs; encourage cooperation and coordination rather than competition and program conflict between secondary and postsecondary education systems; consider the desires and preferences of the residents of the immediate program service area and of the representatives of the fields of management, labor, and agriculture which benefit from possible program offerings; and avoid unnecessary duplication of vocational education programs and facilities.

(3) Vocational education administration. The commission shall be the sole agency for the receipt and allocation of federal funds in accordance with the state plan. The supervision of the state plan shall be carried out by the commission; however, daily administration of the state plan shall be primarily the responsibility of the superintendent of public instruction and the state board for community college education: PROVIDED, That the commission shall review and approve state plan development proposals or special programs requiring personal service contracts, and activities beyond the program responsibilities of the superintendent of public instruction and the state board for community college education.

Under the state plan the commission shall make periodic compliance audits at least once a biennium of the vocational education programs individually and jointly conducted by the common schools and community colleges to insure compliance with the state plan.

The commission shall be the primary state liaison with the federal government for the state plan for vocational education.

~~(4) ((Fire service training program. The commission may accept any and all donations, grants, bequests, and devices, conditional or otherwise, or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the fire service training program established in RCW 28C.04.140.~~

(5)) Job skills program. The commission shall have the following powers and duties for the job skills program:

(a) To collect and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government,

information concerning areas of present and projected employment need, programs of skills training and education consistent therewith, and any other relevant information;

(b) To apply for, utilize, and accept grants from other federal, state, and local agencies for the purposes of matching requirements and to facilitate the purposes of RCW 28C.04.420 through 28C.04.480;

(c) To help identify, upon the request of business and industry, those educational institutions which could provide the training services sought by business and industry and to identify any existing programs which could serve the particular needs of business and industry;

(d) To provide job skills grants to educational institutions to facilitate the development of programs of job skills training and education consistent with employment needs;

(e) To work cooperatively with the employment security department to enhance and update the state's occupational information system and the state's career information system;

(f) To adopt rules to carry out its powers and duties for the job skills program.

Sec. 79. Section 1, chapter 320, Laws of 1981 and RCW 4.24.400 are each amended to read as follows:

No building warden, who acts in good faith, with or without compensation, shall be personally liable for civil damages arising from his or her negligent acts or omissions during the course of assigned duties in assisting others to evacuate industrial, commercial, governmental or multi-unit residential buildings or in attempting to control or alleviate a hazard to the building or its occupants caused by fire, earthquake or other threat to life or limb. The term "building warden" means an individual who is assigned to take charge of the occupants on a floor or in an area of a building during an emergency in accordance with a predetermined fire safety or evacuation plan; and/or an individual selected by a municipal fire chief or the ((state fire marshal)) director of community development, through the director of fire protection, after an emergency is in progress to assist in evacuating the occupants of such a building or providing for their safety. This section shall not apply to any acts or omissions constituting gross negligence or wilful or wanton misconduct.

Sec. 80. Section 1, chapter 204, Laws of 1967 and RCW 9.40.100 are each amended to read as follows:

Any person who wilfully and without cause tampers with, molests, injures or breaks any public or private fire alarm apparatus, emergency phone, radio, or other wire or signal, or any fire fighting equipment, or who wilfully and without having reasonable grounds for believing a fire exists, sends, gives, transmits, or sounds any false alarm of fire, by shouting in a public place or by means of any public or private fire alarm system or signal, or by telephone, is guilty of a misdemeanor. This provision shall not

prohibit the testing of fire alarm systems by persons authorized to do so, by a fire department or ~~((state fire marshal official))~~ the director of community development, through the director of fire protection.

Sec. 81. Section 13, chapter 253, Laws of 1957 and RCW 18.20.130 are each amended to read as follows:

Standards for fire protection and the enforcement thereof, with respect to all boarding homes to be licensed hereunder, shall be the responsibility of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, who shall adopt such recognized standards as may be applicable to boarding homes for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the ~~((state fire marshal))~~ 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, or his or her deputy, shall make an inspection of the boarding home 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, he or she shall promptly make a written report to the boarding home and the department or authorized department 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, authorized department, applicant or licensee shall notify the ~~((state fire marshal))~~ 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))~~ director of community development, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the boarding home to be licensed meets with the approval of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, he or she shall submit to the department or authorized department, a written report approving same with respect to fire protection before a full license can be issued. The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall make or cause to be made inspections of such homes at least annually.

In cities which have in force a comprehensive building code, the provisions of which are determined by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, to be equal to the minimum standards of the ~~((state fire marshal's))~~ code for boarding homes adopted by the director of community development, through the director of fire protection, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the

~~((state fire marshal))~~ 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. 82. Section 12, chapter 168, Laws of 1951 and RCW 18.46.110 are each amended to read as follows:

Fire protection with respect to all maternity homes to be licensed hereunder, shall be the responsibility of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, who shall adopt by reference, such recognized standards as may be applicable to nursing homes, places of refuge, and maternity homes for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the ~~((state fire marshal))~~ 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, or his or her deputy, shall make an inspection of the maternity home 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, he or she shall promptly make a written report to the department as to the manner in which the premises may qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department, applicant or licensee shall notify the ~~((state fire marshal))~~ 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))~~ director of community development, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the maternity home to be licensed meets with the approval of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, he or she shall submit to the department, a written report approving same with respect to fire protection before a license can be issued. The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall make or cause to be made such inspection of such maternity homes as he or she deems necessary.

In cities which have in force a comprehensive building code, the regulation of which is equal to the minimum standards of the ~~((state fire marshals))~~ code for maternity homes adopted by the director of community development, through the director of fire protection, the building inspector and the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection and shall approve the premises before a license can be issued.

In cities where such building codes are in force, the ~~((state fire marshal))~~ director of community development, through the director of fire protection, may, upon request by the chief fire official, or the local governing body, or of a taxpayer of such city, assist in the enforcement of any such code pertaining to maternity homes.

Sec. 83. Section 15, chapter 117, Laws of 1951 as amended by section 9, chapter 160, Laws of 1953 and RCW 18.51.140 are each amended to read as follows:

Standards for fire protection and the enforcement thereof, with respect to all nursing homes to be licensed hereunder, shall be the responsibility of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, who shall adopt such recognized standards as may be applicable to nursing homes for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the ~~((state fire marshal))~~ 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, or his or her deputy, shall make an inspection of the nursing home 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, he or she shall promptly make a written report to the nursing home and the department 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, applicant or licensee shall notify the ~~((state fire marshal))~~ 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))~~ director of community development, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the nursing home to be licensed meets with the approval of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, he or she shall submit to the department, a written report approving same with respect to fire protection before a full license can be issued. The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall make or cause to be made inspections of such nursing homes at least annually.

In cities which have in force a comprehensive building code, the provisions of which are determined by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, to be equal to the minimum standards of the ~~((state fire marshal's))~~ code for nursing

homes adopted by the director of community development, through the director of fire protection, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the ~~((state fire marshal))~~ 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. 84. Section 16, chapter 2, Laws of 1981 1st ex. sess. as amended by section 45, chapter 67, Laws of 1983 1st ex. sess. and RCW 18.51.145 are each amended to read as follows:

Inspections of nursing homes by local authorities shall be consistent with the requirements of chapter 19.27 RCW, the state building code. Findings of a serious nature shall be coordinated with the department and the ~~((state fire marshal))~~ director of community development, through the director of fire protection, for determination of appropriate actions to ensure a safe environment for nursing home residents. The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall have exclusive authority to determine appropriate corrective action under this section.

Sec. 85. Section 5, chapter 134, Laws of 1983 as amended by section 16, chapter 360, Laws of 1985 and RCW 19.27A.110 are each amended to read as follows:

The ~~((state fire marshal))~~ director of community development, through the director of fire protection, is the only authority having jurisdiction over the approval of portable oil-fueled heaters. The sale and use of portable oil-fueled heaters is governed exclusively by RCW 19.27A.080 through 19.27A.120: PROVIDED, That cities and counties may adopt local standards as provided in RCW 19.27.040.

Sec. 86. Section 28A.04.120, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 40, Laws of 1984 and RCW 28A.04.120 are each amended to read as follows:

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

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

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

(3) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary

for the several departments of the common schools by rule or regulation in accordance with RCW 28A.70.005.

(4) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.02-.201, private schools carrying out a program for any or all of the grades one through twelve: PROVIDED, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

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

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

(7) Prepare with the assistance of the superintendent of public instruction a uniform series of questions, with the proper answers thereto for use in the correcting thereof, to be used in the examination of persons, as this code may direct, and prescribe rules and regulations for conducting any such examinations.

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

(9) Carry out board powers and duties relating to the organization and reorganization of school districts under chapter 28A.57 RCW.

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

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

Sec. 87. Section 7, chapter 36, Laws of 1979 ex. sess. as amended by section 9, chapter 201, Laws of 1985 and RCW 43.43.710 are each amended to read as follows:

Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies and, for the sole purpose of investigating the cause of fires under RCW 48.48.060(2) where the cause is suspected to be arson, to the ~~((state fire marshal))~~ director of community development, through the director of fire protection, upon the filing of an application as provided in RCW 43.43.705.

Dependency record information contained in the files and records of the section shall be considered privileged and shall not be made public. Dependency record information may be disclosed as authorized by this chapter or may be disclosed to the same extent that information regarding dependency proceedings may generally be disclosed, as authorized by applicable laws or court rules.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it.

Sec. 88. Section 2, chapter 237, Laws of 1983 as amended by section 1, chapter 145, Laws of 1984 and RCW 46.37.467 are each amended to read as follows:

(1) Every automobile, truck, motorcycle, motor home, or off-road vehicle that is fueled by an alternative fuel source shall bear a reflective placard issued by the national fire protection association indicating that the vehicle is so fueled. Violation of this subsection is a traffic infraction.

(2) As used in this section "alternative fuel source" includes propane, compressed natural gas, liquid petroleum gas, or any chemically similar gas but does not include gasoline or diesel fuel.

(3) If a placard for a specific alternative fuel source has not been issued by the national fire protection association, a placard issued by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall be required. The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall develop rules for the design, size, and placement of the placard which shall remain effective until a specific placard is issued by the national fire protection association.

Sec. 89. Section 1, chapter 50, Laws of 1980 and RCW 48.48.140 are each amended to read as follows:

- (1) Smoke detection devices shall be installed inside all dwelling units:
 - (a) Occupied by persons other than the owner on and after December 31, 1981; or
 - (b) Built or manufactured in this state after December 31, 1980.
- (2) The smoke detection devices shall be designed, manufactured, and installed inside dwelling units in conformance with:
 - (a) Nationally accepted standards; and
 - (b) As provided by the administrative procedure act, chapter 34.04 RCW, rules and regulations promulgated by the ~~((state fire marshal))~~ director of community development, through the director of fire protection.

(3) Installation of smoke detection devices shall be the responsibility of the owner. Maintenance of smoke detection devices shall be the responsibility of the tenant, who shall maintain the device as specified by the manufacturer. At the time of a vacancy, the owner shall insure that the smoke detection device is operational prior to the reoccupancy of the dwelling unit.

(4) Any owner or tenant failing to comply with this section shall be punished by a fine of not more than fifty dollars.

(5) For the purposes of this section:

(a) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation; and

(b) "Smoke detection device" means an assembly incorporating in one unit a device which detects visible or invisible particles of combustion, the control equipment, and the alarm-sounding device, operated from a power supply either in the unit or obtained at the point of installation.

Sec. 90. Section 1, chapter 258, Laws of 1983 and RCW 48.48.150 are each amended to read as follows:

(1) All premises guarded by guard animals, which are animals professionally trained to defend and protect premises or the occupants of the premises, shall be registered with the local fire department. Front entrances to residences and all entrances to business premises shall be posted in a visible location with signs approved by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, indicating that guard animals are present.

(2) A fire fighter, who reasonably believes that his or her safety is endangered by the presence of a guard animal, may without liability: (a) Refuse to enter the premises, or (b) take any reasonable action necessary to protect himself or herself from attack by the guard animal.

(3) If the person responsible for the guard animal being on the premises does not comply with subsection (1) of this section, that person may be held liable for any injury to the fire fighter caused by the presence of the guard animal.

Sec. 91. Section 4, chapter 80, Laws of 1979 ex. sess. and RCW 48.50.040 are each amended to read as follows:

(1) When an insurer has reason to believe that a fire loss reported to the insurer may be of other than accidental cause, the insurer shall notify the ~~((state fire marshal))~~ director of community development, through the director of fire protection, in the manner prescribed under RCW 48.05.320 concerning the circumstances of the fire loss, including any and all relevant material developed from the insurer's inquiry into the fire loss.

(2) Notification of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, under subsection (1) of this section does not relieve the insurer of the duty to respond to a request for information from any other authorized agency.

Sec. 92. Section 2, chapter 110, Laws of 1982 and RCW 48.53.020 are each amended to read as follows:

(1) The ~~((state fire marshal))~~ director of community development, through the director of fire protection, may designate certain classes of occupancy within a geographic area or may designate geographic areas as having an abnormally high incidence of arson. This designation shall not be a valid reason for cancellation, refusal to issue or renew, modification, or increasing the premium for any fire insurance policy.

(2) A fire insurance policy may not be issued to insure any property within a class of occupancy within a geographic area or within a geographic area designated by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, as having an abnormally high incidence of arson until the applicant has submitted an anti-arson application and the insurer or the insurer's representative has inspected the property. The application shall be prescribed by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, and shall contain but not be limited to the following:

(a) The name and address of the prospective insured and any mortgagees or other parties having an ownership interest in the property to be insured;

(b) The amount of insurance requested and the method of valuation used to establish the amount of insurance;

(c) The dates and selling prices of the property, if any, during the previous three years;

(d) Fire losses exceeding one thousand dollars during the previous five years for property in which the prospective insured held an equity interest or mortgage;

(e) Current corrective orders pertaining to fire, safety, health, building, or construction codes that have not been complied with within the time period or any extension of such time period authorized by the authority issuing such corrective order applicable to the property to be insured;

(f) Present or anticipated occupancy of the structure, and whether a certificate of occupancy has been issued;

(g) Signature and title, if any, of the person submitting the application.

(3) If the facts required to be reported by subsection (2) of this section materially change, the insured shall notify the insurer of any such change within fourteen days.

(4) An anti-arson application is not required for: (a) Fire insurance policies covering one to four-unit owner-occupied residential dwellings; (b) policies existing as of June 10, 1982; or (c) the renewal of these policies.

(5) An anti-arson application shall contain a notice stating: "Designation of a class of occupancy within a geographic area or geographic areas as having an abnormally high incidence of arson shall not be a valid reason for cancellation, refusal to issue or renew, modification, or increasing the premium for any fire insurance policy."

Sec. 93. Section 6, chapter 110, Laws of 1982 and RCW 48.53.060 are each amended to read as follows:

Rules designating geographic areas or classes of occupancy as having an abnormally high incidence of arson, and any other rules necessary to implement this chapter shall be adopted by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, under chapter 34.04 RCW.

Sec. 94. Section 8, chapter 267, Laws of 1955 as amended by section 19, chapter 213, Laws of 1985 and RCW 70.41.080 are each amended to read as follows:

Standards for fire protection and the enforcement thereof, with respect to all hospitals to be licensed hereunder shall be the responsibility of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, who shall adopt, after approval by the department, such recognized standards as may be applicable to hospitals for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the state fire marshal 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, or his or her deputy, shall make an inspection of the hospital to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as adopted pursuant to this chapter, he or she shall promptly make a written report to the hospital and to the department listing the corrective actions required and the time allowed for accomplishing such corrections. The applicant or licensee shall notify the ~~((state fire marshal))~~ director of community development, through the director of fire protection, upon completion of any corrections required by him or her, and the ~~((state fire marshal))~~ director of community development, through the director of fire

protection, or his or her deputy, shall make a reinspection of such premises. Whenever the hospital to be licensed meets with the approval of the ((state fire marshal)) director of community development, through the director of fire protection, he or she shall submit to the department a written report approving the hospital with respect to fire protection, and such report is required before a full license can be issued. The ((state fire marshal)) director of community development, through the director of fire protection, shall make or cause to be made inspections of such hospitals at least once a year.

In cities which have in force a comprehensive building code, the provisions of which are determined by the ((state fire marshal)) director of community development, through the director of fire protection, to be equal to the minimum standards of the ((state fire marshal's)) code for hospitals adopted by the director of community development, through the director of fire protection, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the ((state fire marshal)) 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. 95. Section 11, chapter 239, Laws of 1971 ex. sess. and RCW 70.62.290 are each amended to read as follows:

Rules and regulations establishing fire and life safety requirements, not inconsistent with the provisions of this chapter, shall continue to be promulgated and enforced by the ((state fire marshal's office)) director of community development, through the director of fire protection.

Sec. 96. Section 2, chapter 152, Laws of 1967 and RCW 70.75.020 are each amended to read as follows:

The standardization of existing fire protection equipment in this state shall be arranged for and carried out by or under the direction of the ((state fire marshal)) director of community development, through the director of fire protection. He or she shall provide the appliances necessary for carrying on this work, shall proceed with such standardization as rapidly as possible, and shall require the completion of such work within a period of five years from June 8, 1967: PROVIDED, That the ((state fire marshal)) director of community development, through the director of fire protection, may exempt special purpose fire equipment and existing fire protection equipment from standardization when it is established that such equipment is not essential to the coordination of public fire protection operations.

Sec. 97. Section 3, chapter 152, Laws of 1967 and RCW 70.75.030 are each amended to read as follows:

The ((state fire marshal)) director of community development, through the director of fire protection, shall notify industrial establishments and

property owners having equipment, which may be necessary for fire department use in protecting the property or putting out fire, of any changes necessary to bring their equipment up to the requirements of the standard established by RCW 70.75.020, and shall render such assistance as may be available for converting substandard equipment to meet standard specifications and requirements.

Sec. 98. Section 4, chapter 152, Laws of 1967 and RCW 70.75.040 are each amended to read as follows:

Any person who, without approval of the (~~(state fire marshal)~~) director of community development, through the director of fire protection, sells or offers for sale in Washington any fire hose, fire engine or other equipment for fire protection purposes which is fitted or equipped with other than the standard thread is guilty of a misdemeanor: PROVIDED, That fire equipment for special purposes, research, programs, forest fire fighting, or special features of fire protection equipment found appropriate for uniformity within a particular protection area may be specifically exempted from this requirement by order of the (~~(state fire marshal)~~) director of community development, through the director of fire protection.

Sec. 99. Section 11, chapter 228, Laws of 1961 as amended by section 7, chapter 230, Laws of 1982 and RCW 70.77.170 are each amended to read as follows:

"License" means a nontransferable formal authorization which the (~~(state fire marshal is)~~) director of community development and the director of fire protection are permitted to issue under this chapter to engage in the act specifically designated therein.

Sec. 100. Section 27, chapter 228, Laws of 1961 as last amended by section 7, chapter 249, Laws of 1984 and RCW 70.77.250 are each amended to read as follows:

(1) The (~~(state fire marshal)~~) director of community development, through the director of fire protection, shall enforce and administer this chapter.

(2) The (~~(state fire marshal)~~) director of community development, through the director of fire protection, shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter.

(3) The (~~(state fire marshal)~~) director of community development, through the director of fire protection, may prescribe such rules relating to fireworks as may be necessary for the protection of life and property and for the implementation of this chapter.

(4) The (~~(state fire marshal)~~) director of community development, through the director of fire protection, shall prescribe such rules as may be necessary to ensure state-wide minimum standards for the enforcement of this chapter. Counties, cities, and towns shall comply with such state rules.

Any local rules adopted by local authorities that are more restrictive than state law as to the types of fireworks that may be sold shall have an effective date no sooner than one year after their adoption.

(5) The ~~((state fire marshal))~~ director of community development, through the director of fire protection, may exercise the necessary police powers to enforce the criminal provisions of this chapter. This grant of police powers does not prevent any other state agency or local government agency having general law enforcement powers from enforcing this chapter within the jurisdiction of the agency or local government.

Sec. 101. Section 38, chapter 228, Laws of 1961 as last amended by section 18, chapter 249, Laws of 1984 and RCW 70.77.305 are each amended to read as follows:

The ~~((state fire marshal))~~ director of community development, through the director of fire protection, has the power to issue licenses for the manufacture, importation, sale, and use of all fireworks in this state. A person may be licensed as a manufacturer, importer, or wholesaler under this chapter only if the person has a designated agent in this state who is registered with the ~~((state fire marshal))~~ director of community development, through the director of fire protection.

Sec. 102. Section 40, chapter 228, Laws of 1961 as amended by section 20, chapter 230, Laws of 1982 and RCW 70.77.315 are each amended to read as follows:

Any person who desires to engage in the manufacture, importation, sale, or use of fireworks shall make a written application to the ~~((state fire marshal))~~ director of community development, through the director of fire protection, on forms provided by him or her. Such application shall be accompanied by the annual license fee as prescribed in this chapter.

Sec. 103. Section 42, chapter 228, Laws of 1961 as last amended by section 20, chapter 249, Laws of 1984 and RCW 70.77.325 are each amended to read as follows:

(1) Application for a license shall be made annually by every person holding an existing license who wishes to continue the activity requiring the license. The application shall be accompanied by the annual license fee as prescribed in RCW 70.77.340.

(2) A person applying for an annual license as a retailer under this chapter shall file an application by June 10 of the current year. The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall grant or deny the license within fifteen days of receipt of the application.

(3) A person applying for an annual license as a manufacturer, importer, or wholesaler under this chapter shall file an application by January 31 of the current year. The ~~((state fire marshal))~~ director of community

development, through the director of fire protection, shall grant or deny the license within ninety days of receipt of the application.

Sec. 104. Section 43, chapter 228, Laws of 1961 as amended by section 22, chapter 230, Laws of 1982 and RCW 70.77.330 are each amended to read as follows:

If the ~~((state fire marshal))~~ director of community development, through the director of fire protection, finds that the granting of such license would not be contrary to public safety or welfare, he or she shall issue a license authorizing the applicant to engage in the particular act or acts upon the payment of the license fee specified in this chapter. Licensees may transport the class of fireworks for which they hold a valid license.

Sec. 105. Section 48, chapter 228, Laws of 1961 as last amended by section 21, chapter 249, Laws of 1984 and RCW 70.77.355 are each amended to read as follows:

(1) Any adult person may secure a general license from the ~~((state fire marshal))~~ director of community development, through the director of fire protection, for the public display of fireworks within the state of Washington. A general license is subject to the provisions of this chapter relative to the securing of local permits for the public display of fireworks in any city, county, or fire protection district, except that in lieu of filing the bond or certificate of public liability insurance with the appropriate local official under RCW 70.77.260 as required in RCW 70.77.285, the same bond or certificate shall be filed with the ~~((state fire marshal))~~ director of community development, through the director of fire protection. The bond or certificate of insurance for a general license in addition shall provide that: (a) The insurer will not cancel the insured's coverage without fifteen days prior written notice to the ~~((state fire marshal))~~ director of community development, through the director of fire protection; (b) the duly licensed pyrotechnic operator required by law to supervise and discharge the public display, acting either as an employee of the insured or as an independent contractor and the state of Washington, its officers, agents, employees, and servants are included as additional insureds, but only insofar as any operations under contract are concerned; and (c) the state is not responsible for any premium or assessments on the policy.

(2) The ~~((state fire marshal))~~ director of community development, through the director of fire protection, may issue such general licenses. The holder of a general license shall file a certificate from the ~~((state fire marshal))~~ director of community development, through the director of fire protection, evidencing the license with any application for a local permit for the public display of fireworks under RCW 70.77.260.

Sec. 106. Section 49, chapter 228, Laws of 1961 as last amended by section 22, chapter 249, Laws of 1984 and RCW 70.77.360 are each amended to read as follows:

If the ~~((state fire marshal))~~ director of community development, through the director of fire protection, finds that an application for any license under this chapter contains a material misrepresentation or that the granting of any license would be contrary to the public safety or welfare, the ~~((state fire marshal))~~ director of community development, through the director of fire protection, may deny the application for the license.

Sec. 107. Section 50, chapter 228, Laws of 1961 as last amended by section 23, chapter 249, Laws of 1984 and RCW 70.77.365 are each amended to read as follows:

A written report by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, or a local fire official, or any of their authorized representatives, disclosing that the applicant for a license, or the premises for which a license is to apply, do not meet the qualifications or conditions for a license constitutes grounds for the denial by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, of any application for a license.

Sec. 108. Section 52, chapter 228, Laws of 1961 as amended by section 30, chapter 230, Laws of 1982 and RCW 70.77.375 are each amended to read as follows:

The ~~((state fire marshal))~~ director of community development, through the director of fire protection, upon reasonable opportunity to be heard, shall revoke any license issued pursuant to this chapter, if he or she finds that:

(1) The licensee has violated any provisions of this chapter or any rule or regulations made by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, under and with the authority of this chapter;

(2) The licensee has created or caused a fire nuisance;

(3) Any licensee has failed or refused to file any required reports; or

(4) Any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the ~~((state fire marshal))~~ director of community development, through the director of fire protection, in refusing originally to issue such license.

Sec. 109. Section 60, chapter 228, Laws of 1961 as last amended by section 25, chapter 249, Laws of 1984 and RCW 70.77.415 are each amended to read as follows:

Every public display of fireworks shall be handled or supervised by a pyrotechnic operator licensed by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, under RCW 70.77.255.

Sec. 110. Section 63, chapter 228, Laws of 1961 as last amended by section 28, chapter 249, Laws of 1984 and RCW 70.77.430 are each amended to read as follows:

Notwithstanding RCW 70.77.255, following the revocation or expiration of a license, a licensee in lawful possession of a lawfully acquired stock of fireworks may sell such fireworks, but only under supervision of the ~~((state fire marshal))~~ director of community development, through the director of fire protection. Any sale under this section shall be solely to persons who are authorized to buy, possess, sell, or use such fireworks.

Sec. 111. Section 64, chapter 228, Laws of 1961 as amended by section 37, chapter 230, Laws of 1982 and RCW 70.77.435 are each amended to read as follows:

Any fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter or the rules or regulations of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall be subject to seizure by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, or ~~((any))~~ his or her deputy ((state fire marshal)). Any fireworks seized under this section may be disposed of by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, by summary destruction at any time subsequent to thirty days from such seizure or ten days from the final termination of proceedings under the provisions of RCW 70.77.440, whichever is later.

Sec. 112. Section 65, chapter 228, Laws of 1961 as amended by section 29, chapter 249, Laws of 1984 and RCW 70.77.440 are each amended to read as follows:

(1) Any person whose fireworks are seized under the provisions of RCW 70.77.435 may within ten days after such seizure petition the ~~((state fire marshal))~~ director of community development, through the director of fire protection, to return the fireworks seized upon the ground that such fireworks were illegally or erroneously seized. Any petition filed hereunder shall be considered by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, within fifteen days after filing and an oral hearing granted the petitioner, if requested. Notice of the decision of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall be served upon the petitioner. The ~~((state fire marshal))~~ director of community development, through the director of fire protection, may order the fireworks seized under this chapter disposed of or returned to the petitioner if illegally or erroneously seized. The determination of the ~~((state fire marshal))~~ director of community development, through the director of fire protection, is final unless within sixty days an action is commenced in a court of competent jurisdiction in the state of Washington for the recovery of the fireworks seized by the ~~((state fire marshal))~~ director of community development, through the director of fire protection.

(2) If the fireworks are not returned to the petitioner or destroyed pursuant to RCW 70.77.435, the ~~((state fire marshal))~~ director of community development, through the director of fire protection, may sell confiscated common fireworks and special fireworks that are legal for use and possession under this chapter to wholesalers licensed by the ~~((state fire marshal))~~ director of community development, through the director of fire protection. Sale shall be by public auction after publishing a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the auction is to be held, at least three days before the date of the auction. The proceeds of the sale of the seized fireworks under this section shall be deposited in the general fund. Fireworks that are not legal for use and possession in this state shall be destroyed by the ~~((state fire marshal))~~ director of community development, through the director of fire protection.

Sec. 113. Section 67, chapter 228, Laws of 1961 and RCW 70.77.450 are each amended to read as follows:

The ~~((state fire marshal))~~ director of community development, through the director of fire protection, may make an examination of the books and records of any licensee, or other person relative to fireworks, and may visit and inspect the premises of any licensee he may deem at any time necessary for the purpose of enforcing the provisions of this chapter. The licensee, owner, lessee, manager, or operator of any such building or premises shall permit the ~~((state fire marshal))~~ director of community development, through the director of fire protection, his or her deputies, his or her salaried assistants and the chief of any city or county fire department or fire protection district and their authorized representatives to enter and inspect the premises at the time and for the purpose stated in this section.

Sec. 114. Section 68, chapter 228, Laws of 1961 as amended by section 38, chapter 230, Laws of 1982 and RCW 70.77.455 are each amended to read as follows:

All licensees shall maintain and make available to the ~~((state fire marshal))~~ director of community development, through the director of fire protection, full and complete records showing all production, imports, exports, purchases, sales, and consumption of fireworks items by kind and class.

Sec. 115. Section 69, chapter 228, Laws of 1961 and RCW 70.77.460 are each amended to read as follows:

When reports on fireworks transactions or the payments of license fees or penalties are required to be made on or by specified dates, they shall be deemed to have been made at the time they are filed with or paid to the ~~((state fire marshal))~~ director of community development, through the director of fire protection, or, if sent by mail, on the date shown by the United States postmark on the envelope containing the report or payment.

Sec. 116. Section 70, chapter 228, Laws of 1961 and RCW 70.77.465 are each amended to read as follows:

In addition to any other reports required under this chapter, the ~~((state fire marshal))~~ director of community development, through the director of fire protection, may, by rule or otherwise, require additional, other, or supplemental reports from licensees and other persons and prescribe the form, including verification, of the information to be given when filing such additional, other or supplemental reports.

Sec. 117. Section 8, chapter 249, Laws of 1984 and RCW 70.77.575 are each amended to read as follows:

(1) The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall adopt by rule a list of the fireworks that may be sold to the public in this state pursuant to this chapter. The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall file the list by October 1st of each year with the code reviser for publication, unless the previously published list has remained current.

(2) The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall provide the list adopted under subsection (1) of this section by November 1st of each year to all manufacturers, wholesalers, and importers licensed under this chapter, unless the previously distributed list has remained current.

Sec. 118. Section 9, chapter 249, Laws of 1984 and RCW 70.77.580 are each amended to read as follows:

Retailers required to be licensed under this chapter shall post prominently at each retail outlet a list of the fireworks that may be sold to the public in this state pursuant to this chapter. The posted list shall be in a form approved by the ~~((state fire marshal))~~ director of community development, through the director of fire protection. The ~~((fire marshal))~~ director of community development, through the director of fire protection, shall make available the list.

Sec. 119. Section 2, chapter 101, Laws of 1975-'76 2nd ex. sess. and RCW 70.105.020 are each amended to read as follows:

The department after notice and public hearing shall:

(1) Adopt regulations designating as extremely hazardous wastes subject to the provisions of this chapter those substances which exhibit characteristics consistent with the definition provided in RCW 70.105.010(6);

(2) Adopt and may revise when appropriate, minimum standards and regulations for disposal of extremely hazardous wastes to protect against hazards to the public, and to the environment. Before adoption of such standards and regulations, the department shall consult with appropriate agencies of interested local governments and secure technical assistance from the department of agriculture, the department of social and health services, the department of game, the department of natural resources, the department of fisheries, the department of labor and industries, and the

((state fire marshal)) department of community development, through the director of fire protection.

Sec. 120. Section 23, chapter 302, Laws of 1971 ex. sess. as amended by section 1, chapter 123, Laws of 1972 ex. sess. and RCW 70.108.040 are each amended to read as follows:

Application for an outdoor music festival permit shall be in writing and filed with the clerk of the issuing authority wherein the festival is to be held. Said application shall be filed not less than ninety days prior to the first scheduled day of the festival and shall be accompanied with a permit fee in the amount of two thousand five hundred dollars. Said application shall include:

(1) The name of the person or other legal entity on behalf of whom said application is made: PROVIDED, That a natural person applying for such permit shall be eighteen years of age or older;

(2) A financial statement of the applicant;

(3) The nature of the business organization of the applicant;

(4) Names and addresses of all individuals or other entities having a ten percent or more proprietary interest in the festival;

(5) The principal place of business of applicant;

(6) A legal description of the land to be occupied, the name and address of the owner thereof, together with a document showing the consent of said owner to the issuance of a permit, if the land be owned by a person other than the applicant;

(7) The scheduled performances and program;

(8) Written confirmation from the local health officer that he or she has reviewed and approved plans for site and development in accordance with rules, regulations and standards adopted by the state board of health. Such rules and regulations shall include criteria as to the following and such other matters as the state board of health deems necessary to protect the public's health:

(a) Submission of plans

(b) Site

(c) Water supply

(d) Sewage disposal

(e) Food preparation facilities

(f) Toilet facilities

(g) Solid waste

(h) Insect and rodent control

(i) Shelter

(j) Dust control

(k) Lighting

(l) Emergency medical facilities

(m) Emergency air evacuation

(n) Attendant physicians

(o) Communication systems

(9) A written confirmation from the appropriate law enforcement agency from the area where the outdoor music festival is to take place, showing that traffic control and crowd protection policing have been contracted for or otherwise provided by the applicant meeting the following conditions:

(a) One person for each two hundred persons reasonably expected to be in attendance at any time during the event for purposes of traffic and crowd control.

(b) The names and addresses of all traffic and crowd control personnel shall be provided to the appropriate law enforcement authority: PROVIDED, That not less than twenty percent of the traffic and crowd control personnel shall be commissioned police officers or deputy sheriffs: PROVIDED FURTHER, That on and after February 25, 1972 any commissioned police officer or deputy sheriff who is employed and compensated by the promoter of an outdoor music festival shall not be eligible and shall not receive any benefits whatsoever from any public pension or disability plan of which he or she is a member for the time he is so employed or for any injuries received during the course of such employment.

(c) During the hours that the festival site shall be open to the public there shall be at least one regularly commissioned police officer employed by the jurisdiction wherein the festival site is located for every one thousand persons in attendance and said officer shall be on duty within the confines of the actual outdoor music festival site.

(d) All law enforcement personnel shall be charged with enforcing the provisions of this chapter and all existing statutes, ordinances and regulations.

(10) A written confirmation from the appropriate law enforcement authority that sufficient access roads are available for ingress and egress to the parking areas of the outdoor music festival site and that parking areas are available on the actual site of the festival or immediately adjacent thereto which are capable of accommodating one auto for every four persons in estimated attendance at the outdoor music festival site.

(11) A written confirmation from the department of natural resources, where applicable, and the ~~((office of the state fire marshal))~~ director of community development, through the director of fire protection, that all fire prevention requirements have been complied with.

(12) A written statement of the applicant that all state and local law enforcement officers, fire control officers and other necessary governmental personnel shall have free access to the site of the outdoor music festival.

(13) A statement that the applicant will abide by the provisions of this chapter.

(14) The verification of the applicant warranting the truth of the matters set forth in the application to the best of the applicant's knowledge, under the penalty of perjury.

Sec. 121. Section 6, chapter 236, Laws of 1985 and RCW 70.160.060 are each amended to read as follows:

This chapter is not intended to regulate smoking in a private enclosed workplace, within a public place, even though such workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the ~~((state fire marshal))~~ director of community development, through the director of fire protection, or by other law, ordinance, or regulation.

Sec. 122. Section 1, chapter 224, Laws of 1959 as amended by section 135, chapter 141, Laws of 1979 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 ~~((state fire marshal))~~ 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, upon receipt of an application for a license, or renewal of a license, shall submit to the ~~((state fire marshal))~~ 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 ~~((state fire marshal))~~ 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 ~~((state fire marshal))~~ 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 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, applicant or licensee shall notify the ~~((state fire marshal))~~ 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, he or she shall submit to the department of social and health services a written report approving same with respect to fire protection before a full license can be issued. The ~~((state fire marshal))~~ 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 shall not license or continue the license of any establishment unless and until it shall be approved by the ~~((state fire marshal))~~ 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 ~~((state fire marshal))~~ director of community development, through the director of fire protection, to be equal to the minimum standards of the ~~((state fire marshal))~~ 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 ~~((state fire marshal))~~ 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. 123. Section 5, chapter 172, Laws of 1967 as last amended by section 8, chapter 118, Laws of 1982 and RCW 74.15.050 are each amended to read as follows:

The ~~((state fire marshal))~~ director of community development, through the director of fire protection, shall have the power and it shall be his or her duty:

(1) 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 adopt recognized minimum standard requirements pertaining to each category of agency established pursuant to chapter 74.15 RCW and RCW 74.13.031, except foster-family homes and child-placing agencies, necessary to protect all persons residing therein from fire hazards;

(2) To make or cause to be made such inspections and investigations of agencies, other than foster-family homes or child-placing agencies, as he or she deems necessary;

(3) To make a periodic review of requirements under RCW 74.15.030(6) and to adopt necessary changes after consultation as required in subsection (1) of this section;

(4) To issue to applicants for licenses hereunder, other than foster-family homes or child-placing agencies, who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department of social and health services before a license shall be issued, except that a provisional license may be issued as provided in RCW 74.15.120.

Sec. 124. Section 8, chapter 172, Laws of 1967 as amended by section 359, chapter 141, Laws of 1979 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 (~~(and the state fire marshal)~~), 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. 125. All reports, documents, surveys, books, records, files, papers, or other written material in the possession of the insurance commissioner or the state fire protection board pertaining to the office of the state fire marshal or the state fire protection board shall be delivered to the custody of the department. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the insurance commissioner or the state fire protection board in carrying out the powers and duties of the state fire marshal or the state fire protection board shall be transferred to the department. All funds, credits, or other assets held in connection with the state fire marshal's office or the state fire protection board shall be assigned to the department.

Any appropriations made to the insurance commissioner or the state fire protection board for the purpose of carrying out the powers and duties of the state fire marshal or the state fire protection board, shall, on the effective date of this section, be transferred and credited to the department for the purpose of carrying out the transferred powers and duties.

Whenever any question arises as to the transfer of any personnel, funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions of the state fire marshal's office or the state fire protection board, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned. All transfers made under this section shall be used to carry out the purposes of sections 54 through 124 of this act.

NEW SECTION. Sec. 126. All employees of the state fire marshal's office and the state fire protection board are transferred to the jurisdiction of the department. All classified employees subject to chapter 41.06 RCW, the state civil service law, shall be assigned to the department 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. All transfers made under this section shall be used to carry out the purposes of sections 54 through 124 of this act.

NEW SECTION. Sec. 127. All rules and all pending business before the state fire marshal's office or the state fire protection board on the effective date of this section shall be continued and acted upon in accordance with the provisions of sections 54 through 124 of this act. All existing contracts and obligations shall remain in full force and effect and shall be performed in accordance with the provisions of this act.

NEW SECTION. Sec. 128. The transfer of the powers, duties, functions, and personnel of the state fire marshal's office and the state fire protection board shall not affect the validity of any act performed by such employee prior to the effective date of this section.

NEW SECTION. Sec. 129. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the commission for vocational education or the state fire protection board and pertaining to fire service training shall be delivered to the custody of the department. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the commission for vocational education or the state fire protection board in fire service training shall be transferred to the department. All funds, credits, or other assets held in connection with fire service training shall be assigned to the department.

Any appropriations made to the commission for vocational education or the state fire protection board for fire service training shall, on the effective date of this section, be transferred and credited to the department.

Whenever any question arises as to the transfer of any personnel, funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned. All transfers made under this section shall be used to carry out the purposes of sections 54 through 124 of this act.

NEW SECTION. Sec. 130. All employees of the commission for vocational education and the state fire protection board engaged in fire service training are transferred to the department. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department 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. All transfers made under this section shall be used to carry out the purposes of sections 54 through 124 of this act.

NEW SECTION. Sec. 131. All rules and all pending business before the commission for vocational education or the state fire protection board

pertaining to fire service training shall be continued and acted upon in accordance with the provisions of sections 54 through 124 of this act. All existing contracts and obligations shall remain in full force and effect and shall be performed in accordance with sections 54 through 124 of this act.

NEW SECTION. Sec. 132. The transfer of the powers, duties, functions, and personnel of the commission for vocational education or the state fire protection board pertaining to fire service training shall not affect the validity of any act performed by such employee prior to the effective date of this section.

NEW SECTION. Sec. 133. If apportionments of budgeted funds are required because of the transfers directed by sections 125 through 132 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. 134. As used in sections 125 through 133 of this act, "department" means the department of community development.

NEW SECTION. Sec. 135. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 312, Laws of 1985 and RCW 28C.04.142;
- (2) Section 2, chapter 312, Laws of 1985 and RCW 28C.04.144;
- (3) Section 1, chapter 470, Laws of 1985 and RCW 48.48.001;
- (4) Section 2, chapter 470, Laws of 1985 and RCW 48.48.005;
- (5) Section 4, chapter 470, Laws of 1985 and RCW 48.48.011;
- (6) Section 6, chapter 470, Laws of 1985 and RCW 48.48.015;
- (7) Section 7, chapter 470, Laws of 1985 and RCW 48.48.021;
- (8) Section 8, chapter 470, Laws of 1985 and RCW 48.48.025;
- (9) Section 10, chapter 470, Laws of 1985 and RCW 48.48.028;
- (10) Section 11, chapter 470, Laws of 1985 and RCW 41.06.091;
- (11) Section 28, chapter 470, Laws of 1985 (uncodified);
- (12) Section 29, chapter 470, Laws of 1985 (uncodified);
- (13) Section 30, chapter 470, Laws of 1985 (uncodified);
- (14) Section 31, chapter 470, Laws of 1985 (uncodified);
- (15) Section 32, chapter 470, Laws of 1985 (uncodified);
- (16) Section 33, chapter 470, Laws of 1985 (uncodified);
- (17) Section 34, chapter 470, Laws of 1985 (uncodified);
- (18) Section 35, chapter 470, Laws of 1985 (uncodified); and
- (19) Section 36, chapter 470, Laws of 1985 (uncodified).

DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 136. Section 2, chapter 74, Laws of 1967 as amended by section 2, chapter 125, Laws of 1984 and RCW 43.63A.020 are each amended to read as follows:

For the purposes of this chapter and unless the context shall clearly indicate otherwise:

- (1) "Department" means the department of community development.
- (2) "Director" means the director of community development.
- (3) "Board" means the state fire protection policy board created under section 55 of this 1986 act.

Sec. 137. Section 5, chapter 125, Laws of 1984 and RCW 43.63A.065 are each amended to read as follows:

The department shall have the following functions and responsibilities:

(1) Cooperate with and provide technical and financial assistance to the local governments and to the local agencies serving the communities of the state for the purpose of aiding and encouraging orderly, productive, and coordinated development of the state.

(2) Administer state and federal grants and programs which are assigned to the department by the governor or the legislature.

(3) Administer community services programs through private, non-profit organizations and units of general purpose local government; these programs are directed to the poor and infirm and include community-based efforts to foster self-sufficiency and self-reliance, energy assistance programs, head start, and weatherization.

(4) Study issues affecting the structure, operation, and financing of local government as well as those state activities which involve relations with local government and report the results and recommendations to the governor, legislature, local government, and citizens of the state.

(5) Assist the governor in coordinating the activities of state agencies which have an impact on local governments and communities.

(6) Provide technical assistance to the governor and the legislature on community development policies for the state.

(7) Assist in the production, development, rehabilitation, and operation of owner-occupied or rental housing for low and moderate income persons, and qualify as a participating state agency for all programs of the Department of Housing and Urban Development or its successor.

(8) Support and coordinate local efforts to promote volunteer activities throughout the state.

(9) Participate with other states or subdivisions thereof in interstate programs and assist cities, counties, municipal corporations, governmental conferences or councils, and regional planning commissions to participate with other states or their subdivisions.

(10) Hold public hearings and meetings to carry out the purposes of this chapter.

(11) Provide a comprehensive state-level focus for state fire protection services, funding, and policy.

(12) Administer a program to identify, evaluate, and protect properties which reflect outstanding elements of the state's cultural heritage.

(13) Coordinate a comprehensive state program for mitigating, preparing for, responding to, and recovering from emergencies and disasters.

MISCELLANEOUS

NEW SECTION. Sec. 138. 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. 139. Sections 54 through 135 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.

***NEW SECTION.** Sec. 140. Sections 1 through 53 of this act shall take effect January 1, 1987.

*Sec. 140 was vetoed, see message at end of chapter.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to several sections, Substitute House Bill No. 1709, entitled:

"AN ACT Relating to consolidation of agencies into the department of community development."

This bill would consolidate the Office of Archaeology and Historic Preservation, the Department of Emergency Management, and the Fire Protection Board into the Department of Community Development. The original bill was introduced at my request in order to consolidate programs that deal with local government officials. I also encouraged this bill in order to reduce the number of executive agencies and to achieve better efficiencies by centralized support services. However, a number of partial vetoes are necessary to perfect the measure.

Sections 46 and 47 of Substitute House Bill No. 1709 would amend the Sunset Act provisions affecting the Office of Archaeology and Historic Preservation. Since I intend to sign the portion of Substitute House Bill 1333 that will repeal the same statute, I have vetoed sections 46 and 47 of Substitute House Bill 1709 to avoid a double amendment situation.

I have also vetoed portions of section 55 that would have put several officials on the State Fire Protection Policy Board as nonvoting ex-officio members. These members included the Governor, the Commissioner of Public Lands, the Insurance Commissioner, the Chair of the Commission for Vocational Education and the Director of Fire Protection. The latter official will, in fact, serve as the primary staff person for the Board, so it is inappropriate that he/she serve as a voting member. I believe the other officials will monitor the Board's activities with appropriate staff. Also, having the officials on the Board as ex-officio members makes the Board unnecessarily large.

Finally, I have vetoed section 140 so that the transfer of the Office of Archaeology and Historic Preservation and the Department of Emergency Management to the Department of Community Development can take place in June 1986 rather than in January 1987. The departments indicate the change can be accomplished earlier and the delay is not necessary.

For these reasons, I have vetoed sections 46, 47, 55 in part, and 140. With the exception of these vetoes, Substitute House Bill No. 1709 has been approved."

CHAPTER 267

[Engrossed Substitute House Bill No. 495]

COLVILLE INDIAN RESERVATION—RETROCESSION OF CRIMINAL JURISDICTION

AN ACT Relating to the health, safety, and welfare of the confederated tribes of the Colville reservation; authorizing retrocession of jurisdiction over Indian lands; and adding new sections to chapter 37.12 RCW.

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

NEW SECTION. Sec. 1. Sections 1 through 6 of this act may be known and cited as the Colville Indian reservation criminal jurisdiction retrocession act.

NEW SECTION. Sec. 2. It is the intent of the legislature to authorize a procedure for the retrocession, to the Colville Confederated Tribes of Washington and the United States, of criminal jurisdiction over Indians for acts occurring on tribal lands or allotted lands within the Colville Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States.

Sections 1 through 6 of this act in no way expand the Colville tribe's criminal or civil jurisdiction, if any, over non-Indians or fee title property. Sections 1 through 6 of this act shall have no effect whatsoever on water rights, hunting and fishing rights, the established pattern of civil jurisdiction existing on the lands of the Colville Indian reservation, the established pattern of regulatory jurisdiction existing on the lands of the Colville Indian reservation, taxation, or any other matter not specifically included within the terms of sections 1 through 6 of this act.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the following definitions apply throughout sections 1 through 6 of this act:

(1) "Colville reservation," or "Colville Indian reservation," means all tribal lands or allotted lands lying within the Colville Indian reservation and held in trust by the United States or subject to a restriction against alienation imposed by the United States, but does not include those lands which lie north of the present reservation which were included in original reservation boundaries created in 1872 and which are referred to as the "diminished reservation."

(2) "Indian tribe," "tribe," or "Colville tribes" means the confederated tribes of the Colville reservation.

(3) "Tribal court" means the trial and appellate courts of the Colville tribes.

NEW SECTION. Sec. 4. Whenever the governor receives from the confederated tribes of the Colville reservation a resolution expressing their desire for the retrocession by the state of all or any measure of the criminal jurisdiction acquired by the state pursuant to section 5, chapter 36, Laws of 1963 over lands of the Colville Indian reservation, the governor may, within ninety days, issue a proclamation retroceding to the United States the criminal jurisdiction previously acquired by the state over such reservation. However, the state of Washington shall retain jurisdiction as provided in RCW 37.12.010. The proclamation of retrocession shall not become effective until it is accepted by an officer of the United States government in accordance with 25 U.S.C. Sec. 1323 (82 Stat. 78, 79) and in accordance with procedures established by the United States for acceptance of such retrocession of jurisdiction. The Colville tribes shall not exercise criminal or civil jurisdiction over non-Indians.

***NEW SECTION.** Sec. 5. *The confederated tribes of the Colville reservation may express their desire under section 4 of this act only by a resolution approved by a majority vote of the enrolled adult members of the tribes voting at the next general tribal election.*

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

NEW SECTION. Sec. 6. An action or proceeding which has been filed with any court or agency of the state or local government preceding the effective date of retrocession of jurisdiction under sections 1 through 6 of this act shall not abate by reason of the retrocession or determination of jurisdiction.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act are each added to chapter 37.12 RCW.

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.

Passed the House March 11, 1986.

Passed the Senate March 10, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to section 5, Substitute House Bill No. 495, entitled:

"AN ACT Relating to the health, safety, and welfare of the confederated tribes of the Colville reservation; authorizing retrocession of jurisdiction over Indian lands; and adding new sections to Chapter 37.12 RCW."

This bill authorizes a procedure for the state to retrocede (return) partial criminal jurisdiction to the United States over the Colville Indian reservation. The primary purpose of this bill is to make possible the Colville Tribe's application for federal funds for law enforcement functions. Currently, sixteen other tribal reservations in Washington State are already under a partial state jurisdiction similar to what this bill will allow. However, section 5 requires the Colville tribe to express their desire for retrocession by a majority vote of its enrolled adult members during the next general tribal election. Through their legitimate, elected governing body, the Colville Business Council, the tribal members have already expressed their official support for retrocession. The elected Boards of Commissioners from both Ferry and Okanogan Counties have also officially endorsed retrocession. The strong tribal and local expressions of support for retrocession make the tribal election vote called for in Section 5 unnecessary and I have vetoed this section.

With the exception of section 5, Substitute House Bill No. 495 is approved.

CHAPTER 268

[Substitute House Bill No. 588]

RETIREMENT CONTRIBUTION RATES MODIFIED—UNFUNDED LIABILITY REVISED—CONTRIBUTIONS REQUIRED ONLY IF SERVICE CREDIT EARNED

AN ACT Relating to setting retirement system contribution rates; amending RCW 41.26.450, 41.32.775, 41.40.330, 41.40.361, 41.40.370, and 41.40.650; and creating a new section.

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

Sec. 1. Section 6, chapter 294, Laws of 1977 ex. sess. as amended by section 10, chapter 184, Laws of 1984 and RCW 41.26.450 are each amended to read as follows:

The required contribution rates to the retirement system for members, employers, and the state of Washington shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates.

The member, the employer and the state shall each contribute the following shares of the cost of the retirement system:

Member	50%
Employer	30%
State	20%

Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit.

Any adjustments in contribution rates required from time to time for future costs shall likewise be shared proportionally by the members, employers, and the state: PROVIDED, That the costs of amortizing the unfunded supplemental present value of the retirement system (~~(; in existence on)~~) for persons who established membership before September 30, 1977, shall be borne in full by the state.

Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne in full by the state or by that employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members' contributions required by this section shall be deducted from the members basic salary each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

~~((Until such time as the director shall establish other rates, members, employers of such members, and the state shall each contribute the following percentages of basic salary:~~

Member	8.14%
Employer	4.88%
State	3.28%

~~In addition, the state shall initially contribute an additional twenty percent of basic salary per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977:))~~

Sec. 2. Section 6, chapter 293, Laws of 1977 ex. sess. as amended by section 11, chapter 184, Laws of 1984 and RCW 41.32.775 are each amended to read as follows:

The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary: PROVIDED, That the employer contribution shall be contributed as provided in RCW 41.32.401. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers: PROVIDED, That the costs of amortizing the unfunded supplemental present value of the retirement system ~~((; in existence on))~~ for persons who established membership before September 30, 1977, shall be borne in full by the employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members earnable compensation each payroll period. The members contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends and the employers contribution shall be remitted as provided by law.

~~((Until such time as the director shall establish other rates, members and employers of such members shall each contribute 5.66% of earnable compensation. PROVIDED, That employers shall initially contribute an additional 5.80% of earnable compensation per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977.))~~

Sec. 3. Section 34, chapter 274, Laws of 1947 as last amended by section 12, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.330 are each amended to read as follows:

(1) Each employee who is a member of the retirement system shall contribute five percent of his total compensation earnable: PROVIDED, HOWEVER, That a department of retirement systems expense fund contribution of two dollars and fifty cents per annum shall be transferred in semiannual payments of one dollar and twenty-five cents from each employee account balance in the employees' savings fund to the department of retirement systems expense fund ~~((account))~~, as set forth in this section. On and after July 1, 1973, each employee who is a member of the retirement system shall contribute six percent of his total compensation earnable. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not granted service credit. The officer responsible for making up the payroll shall deduct from the compensation of each member, on each and every payroll of such member for each and every payroll period subsequent to the date on which he became a member of the retirement system the contribution as provided by this section.

(2) Any member may, pursuant to regulations formulated from time to time by the board, provide for himself, by means of an increased rate of contribution to his account in the employees' savings fund, an increased prospective retirement allowance pursuant to RCW 41.40.190 and 41.40.185.

(3) The officer responsible for making up the payroll shall deduct from the compensation of each member covered by the provisions of RCW 41.40.190(5) and 41.40.185(4) on each and every payroll of such member for each and every payroll period subsequent to the date on which he thereafter becomes a member of the retirement system, an amount equal to seven and one-half percent of such member's compensation earnable.

Sec. 4. Section 4, chapter 231, Laws of 1957 as last amended by section 13, chapter 190, Laws of 1973 1st ex. sess. and RCW 41.40.361 are each amended to read as follows:

(1) For the purpose of this section, the "fundable employer liability" at any date shall be the present value of

(a) all future pension benefits payable in respect of all members in the retirement system at that date, and

(b) all future benefits in respect of beneficiaries then receiving retirement allowances or pensions.

(2) The contributions by the employer for benefits under the retirement system shall consist of the sum of a percentage of the compensation of members to be known as the "normal contribution", a percentage of such compensation to be known as the "unfunded liability contribution" and in the case of employers admitted to the retirement system after April 1, 1949, a percentage of such compensation to be known as the "additional contribution". The rates of such contributions shall be determined by the retirement board on the basis of assets and liabilities as shown by actuarial valuation: PROVIDED, That as to state employers effective July 1, 1973 the total combined contributions of the normal contribution and unfunded liability contribution shall not exceed a total combined percentage rate of seven percent for each employer unless authorized by the legislature.

(3) After the completion of each actuarial valuation subsequent to the first actuarial valuation of June 30, 1953, the retirement board shall determine the normal contribution rate and such contribution rate shall become effective in the ensuing biennium. In addition the board shall determine the additional employer contribution rate necessary to fund the benefits granted officials holding office pursuant to Articles II and III of the Constitution of the state of Washington and RCW 48.02.010. Said additional employer contribution rate shall be paid in the same manner as the normal contribution and the unfunded liability contribution. Until the unfunded liability contribution shall have been discontinued, such normal contribution rate shall be computed to be sufficient, when applied to the present value of the future compensation of the average new member entering the system, to provide for the payment of all prospective pension benefits in respect of such member. After the unfunded liability contributions have been discontinued, such normal contribution rate shall be determined as the uniform and constant percentage of the prospective compensation of all members of the retirement system at the date of such valuation which is equivalent to the excess of the fundable employer liability over the amount of funds currently standing to the credit of the benefit account fund.

(4) After the completion of each actuarial valuation subsequent to the first actuarial valuation of June 30, 1953, the retirement board shall determine the unfunded liability contribution, and such rate shall become effective in the ensuing biennium. The unfunded liability contribution rate shall

~~((not be less than the uniform and constant percentage of the prospective compensation of all members of the retirement system for the forty-year period following the date of such valuation which is equivalent to the unfunded liability))~~ be set at a percentage sufficient to provide for the amortization of unfunded retirement system liabilities over a period of not more than forty years from June 30, 1985. The unfunded liability shall be determined at such date as the excess of the fundable employer liability over the sum of the present value of the future normal contributions payable in respect of all members in the retirement system at that date, and the amount of all funds currently standing to the credit of the benefit account fund. The unfunded liability contributions shall continue until there remains no unfunded liability.

(5) Any employer admitted to the retirement system after April 1, 1949, shall make an additional contribution until such time as the sum of such additional contributions equals the amount of contributions which such employer and employee would have been required to contribute between April 1, 1949, and the date of such employer's admission to the retirement system: PROVIDED, That either the employee or employer may make the contributions the employee would have made during the same period of time: PROVIDED FURTHER, That all additional contributions hereunder and under the provisions of RCW 41.40.160(2) must be completed within fifteen years from the date of the employer's admission. Employee contributions for these periods must be made before the member will receive credit for those periods of service, pursuant to such regulations as the retirement board may adopt.

(6) For the biennium beginning July 1, 1971, and ending June 30, 1973, only, and notwithstanding any other provision of the chapter, the rate determined by the board for state employer contributions shall be only the percentage of compensation for members equal to the "normal contribution" computed to be four and thirty-six one-hundredths percent of compensation.

Sec. 5. Section 38, chapter 274, Laws of 1947 as last amended by section 1, chapter 138, Laws of 1985 and RCW 41.40.370 are each amended to read as follows:

(1) The director shall ascertain and report to each employer the contribution rates necessary to meet present and future pension liabilities of the system for the ensuing biennium or fiscal year, whichever is applicable. The amount to be so provided shall be computed by applying the rates of contribution as established by RCW 41.40.361 or 41.40.650 to an estimate of the total compensation earnable of all the said employer's members during the period for which provision is to be made.

(2) Beginning April 1, 1949, or October 1, 1977, as the case may be, the amount to be collected as the employer's contribution shall be computed

by applying the applicable rates established by RCW 41.40.361 or 41.40.650 to the total compensation earnable of employer's members as shown on the current payrolls of the said employer. Each said employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not granted service credit.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the director shall bill such employer for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls.

Sec. 6. Section 6, chapter 295, Laws of 1977 ex. sess. as amended by section 12, chapter 184, Laws of 1984 and RCW 41.40.650 are each amended to read as follows:

The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary. The state actuary shall use the aggregate actuarial cost method to calculate contribution rates.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Effective January 1, 1987, however, no member or employer contributions are required for any calendar month in which the member is not granted service credit. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers: **PROVIDED**, That the costs of amortizing the unfunded supplemental present value of the retirement system(~~(-in existence on))~~) for persons who established membership before September 30, 1977, shall be borne in full by the employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

~~((Until such time as the director shall establish other rates, members and employers of such members shall each contribute 5.51% of compensation earnable: PROVIDED, That employers shall initially contribute an additional one and one-half percent of compensation earnable per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977:))~~

****NEW SECTION. Sec. 7. Until June 1, 1987, the director is authorized to retroactively suspend any administrative action initiated on or after January 1, 1986, to recover pension overpayments from retirees who have returned to covered employment.***

*Sec. 7 was vetoed, see message at end of chapter.

Passed the House March 9, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to section 7, Substitute House Bill No. 588, entitled:

"AN ACT Relating to setting retirement system contribution rates."

Section 7 suspends the reclamation of pension benefits paid to a retiree who is still employed by the state. This section is nearly, but not exactly, identical to section 8 of Engrossed Substitute Senate Bill 3182. To avoid confusion in the law, I have vetoed section 7 of this bill.

With the exception of section 7, Substitute House Bill No. 588 is approved."

CHAPTER 269

[Substitute House Bill No. 1134]

DEPARTMENT OF SOCIAL AND HEALTH SERVICES TO SCREEN POTENTIAL EMPLOYEES WHO WILL BE WORKING WITH CHILDREN OR DEVELOPMENTALLY DISABLED PERSONS—INSTITUTIONAL CARE EMPLOYEE REIMBURSEMENT FOR COSTS RELATED TO ASSAULT BY RESIDENTS

AN ACT Relating to the department of social and health services; amending RCW 26-44.070; adding a new section to chapter 43.20A RCW; adding a new section to chapter 41.06 RCW; adding a new section to chapter 72.01 RCW; and repealing RCW 43.20A.700.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.20A RCW to read as follows:

The secretary shall investigate the conviction records or pending charges of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children 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.

NEW SECTION. Sec. 2. A new section is added to chapter 41.06 RCW to read as follows:

The state personnel board shall adopt rules, in cooperation with the secretary of social and health services, for the background investigation of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons.

Sec. 3. Section 6, chapter 35, Laws of 1969 ex. sess. as last amended by section 6, chapter 97, Laws of 1984 and RCW 26.44.070 are each amended to read as follows:

The department shall maintain a central registry of reported cases of child abuse or abuse of an adult dependent person and shall adopt such rules and regulations as necessary in carrying out the provisions of this section. Records in the central registry shall be considered confidential and privileged and will not be available except upon court order to any person or agency except (1) law enforcement agencies as defined in this chapter in the course of an investigation of alleged abuse or neglect; (2) protective services workers or juvenile court personnel who are investigating reported incidents of abuse or neglect; (3) department of social and health services personnel who are investigating the character and/or suitability of an agency and other persons who are applicants for licensure, registration, or certification, or applicants for employment with such an agency or persons, or under contract to or employed by an agency or persons directly responsible for the care and treatment of children, expectant mothers, or adult dependent persons pursuant to chapter 74.15 RCW; (4) department of social and health services personnel who are investigating the character, suitability, and competence of persons being considered for employment with the department in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons pursuant to chapters 43.20A and 41.06 RCW; (5) department of social and health services personnel who are investigating the character or suitability of any persons with whom children may be placed under the interstate compact on the placement of children, chapter 26.34 RCW; ~~((5))~~ (6) physicians who are treating the child or adult dependent person or family; ~~((6))~~ (7) any child or adult dependent person named in the registry who is alleged to be abused or neglected, or his or her guardian ad litem and/or attorney; ~~((7))~~ (8) a parent, guardian, or other person legally responsible for the welfare and safety of the child or

adult dependent person named in the registry; ~~((8))~~ (9) any person engaged in a bona fide research purpose, as determined by the department, according to rules and regulations, provided that information identifying the persons of the registry shall remain privileged; and ~~((9))~~ (10) any individual whose name appears on the registry shall have access to his own records. Those persons or agencies exempted by this section from the confidentiality of the records of the registry shall not further disseminate or release such information so provided to them and shall respect the confidentiality of such information, and any violation of this section shall constitute a misdemeanor.

*NEW SECTION. Sec. 4. A new section is added to chapter 72.01 RCW to read as follows:

(1) For purposes of this section only, "assault" means an unauthorized touching of an employee by a resident, patient, or juvenile offender resulting in physical injury to the employee.

(2) In recognition of the hazardous nature of employment in state institutions, the legislature hereby provides a supplementary program to reimburse institutional care employees of the department of social and health services for some of their costs attributable to their being the victims of assault by residents, patients, or juvenile offenders. This program shall be limited to the reimbursement provided in this section.

(3) An employee is only entitled to receive the reimbursement provided in this section if the secretary of social and health services, or the secretary's designee, finds that each of the following has occurred:

(a) A resident or patient has assaulted the employee and as a result thereof the employee has sustained demonstrated physical injuries which have required the employee to miss days of work;

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment; and

(c) The department of labor and industries has approved the employee's workers' compensation application pursuant to chapter 51.32 RCW.

(4) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(5) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(6) The employee shall not be entitled to the reimbursement provided in subsection (4) of this section for any workday for which the secretary or secretary's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(7) The reimbursement shall only be made for absences which the secretary or secretary's designee, believes are justified.

(8) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(9) While the employee is receiving reimbursement under this section, the employee shall continue to receive service credit under chapter 41.32 or 41.40 RCW, whichever is appropriate, and the respective employee and employer contributions to the retirement system shall also continue to be made, under the appropriate chapter, on the regular compensation the employee would have received had not the disability occurred.

(10) All reimbursement payments required to be made to employees under this section shall be made by the department of social and health services. The payments shall be considered as a salary or wage expense and shall be paid by the department in the same manner and from the same appropriations as other salary and wage expenses of the department.

(11) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

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

NEW SECTION. Sec. 5. Section 5, chapter 151, Laws of 1981 and RCW 43.20A.700 are each repealed.

Passed the House March 12, 1986.

Passed the Senate March 12, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to section 4(9), Substitute House Bill No. 1134, entitled:

"AN ACT Relating to the Department of Social and Health Services."

Section 4(9) of this bill would permit Department of Social and Health Services employees injured by assault to receive retirement credit for their period of disability. Similar provisions are also contained in section 2 of Engrossed House Bill No. 1652. To avoid conflict between the two provisions, I have vetoed section 4(9).

With the exception of section 4(9), Substitute House Bill No. 1134 is approved."

CHAPTER 270

[Engrossed Substitute House Bill No. 1333]

COMMISSION ON ASIAN-AMERICAN AFFAIRS—NURSING HOME
ADVISORY COUNCIL—EMERGENCY MEDICAL SERVICES COMMITTEE—
COUNCIL FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT—
SNOWMOBILE ADVISORY COMMITTEE—CEMETERY BOARD—SUNSET
PROVISIONS MODIFIED

AN ACT Relating to the deferring or deleting of the proposed termination and repeal of agencies and programs; amending RCW 43.131.215, 43.131.216, 43.131.301, 43.131.302, 43.131.303, 43.131.304, 43.131.319, 43.131.320, and 46.10.220; repealing RCW 43.131.187, 43.131.188, 43.131.189, 43.131.190, 43.131.211, 43.131.212, 43.131.221, 43.131.222, 43.131.305, 43.131.306, 43.131.307, 43.131.313, 43.131.314, 67.08.910, 43.101.850, 18.39.910, and 43.21F.900; and declaring an emergency.

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

Sec. 1. Section 34, chapter 99, Laws of 1979 as amended by section 3, chapter 119, Laws of 1983 and RCW 43.131.215 are each amended to read as follows:

The Washington state commission on Asian-American affairs and its powers and duties shall be terminated on June 30, (~~(1988)~~) 1989, as provided in RCW 43.131.216.

Sec. 2. Section 76, chapter 99, Laws of 1979 as amended by section 4, chapter 119, Laws of 1983 and RCW 43.131.216 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, (~~(1989)~~) 1990:

(1) Section 1, chapter 140, Laws of 1974 ex. sess., section 1, chapter 119, Laws of 1983 and RCW 43.117.010;

(2) Section 2, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.020;

(3) Section 3, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.030;

(4) Section 4, chapter 140, Laws of 1974 ex. sess., section 131, chapter 34, Laws of 1975-'76 2nd ex. sess., section 1, chapter 68, Laws of 1982 and RCW 43.117.040;

(5) Section 5, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.050;

(6) Section 6, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.060;

(7) Section 7, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.070;

(8) Section 8, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.080;

(9) Section 9, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.090;

(10) Section 10, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.100;

(11) Section 11, chapter 140, Laws of 1974 ex. sess. and RCW 43.117.900; and

(12) Section 14, chapter 140, Laws of 1974 ex. sess., section 1, chapter 297, Laws of 1977 ex. sess., section 2, chapter 119, Laws of 1983 and RCW 43.117.910.

Sec. 3. Section 24, chapter 197, Laws of 1983 and RCW 43.131.301 are each amended to read as follows:

The nursing home advisory council and its powers and duties shall be terminated on June 30, (~~(+1987)~~) 1989, as provided in RCW 43.131.302.

Sec. 4. Section 50, chapter 197, Laws of 1983 and RCW 43.131.302 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, (~~(+1988)~~) 1990:

(1) Section 11, chapter 117, Laws of 1951, section 1, chapter 85, Laws of 1971 ex. sess., section 65, chapter 211, Laws of 1979 ex. sess., section 39, chapter 287, Laws of 1984 and RCW 18.51.100; and

(2) Section 12, chapter 117, Laws of 1951, section 66, chapter 211, Laws of 1979 ex. sess. and RCW 18.51.110.

Sec. 5. Section 25, chapter 197, Laws of 1983 and RCW 43.131.303 are each amended to read as follows:

The emergency medical services committee and its powers and duties shall be terminated on June 30, (~~(+1987)~~) 1989, as provided in RCW 43.131.304.

Sec. 6. Section 51, chapter 197, Laws of 1983 and RCW 43.131.304 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, (~~(+1988)~~) 1990:

(1) Section 4, chapter 208, Laws of 1973 1st ex. sess., section 43, chapter 34, Laws of 1975-'76 2nd ex. sess., section 2, chapter 261, Laws of 1979 ex. sess., section 13, chapter 338, Laws of 1981, section 55, chapter 279, Laws of 1984 and RCW 18.73.040; and

(2) Section 5, chapter 208, Laws of 1973 1st ex. sess., section 3, chapter 261, Laws of 1979 ex. sess. and RCW 18.73.050.

Sec. 7. Section 5, chapter 261, Laws of 1984 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, (~~(+1988)~~) 1989, as provided in RCW 43.131.320.

Sec. 8. Section 6, chapter 261, Laws of 1984 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, (~~(1989)~~) 1990:

- (1) Section 1, chapter 4, Laws of 1982 and RCW 43.121.010;
- (2) Section 2, chapter 4, Laws of 1982, section 1, chapter 261, Laws of 1984 and RCW 43.121.020;
- (3) Section 3, chapter 4, Laws of 1982, section 87, chapter 287, Laws of 1984 and RCW 43.121.030;
- (4) Section 4, chapter 4, Laws of 1982 and RCW 43.121.040;
- (5) Section 5, chapter 4, Laws of 1982 and RCW 43.121.050;
- (6) Section 6, chapter 4, Laws of 1982 and RCW 43.121.060;
- (7) Section 7, chapter 4, Laws of 1982 and RCW 43.121.070;
- (8) Section 8, chapter 4, Laws of 1982 and RCW 43.121.080;
- (9) Section 9, chapter 4, Laws of 1982, section 2, chapter 261, Laws of 1984 and RCW 43.121.090;
- (10) Section 10, chapter 4, Laws of 1982, section 3, chapter 261, Laws of 1984 and RCW 43.121.100; and
- (11) Section 15, chapter 4, Laws of 1982 and RCW 43.121.910.

Sec. 9. Section 2, chapter 182, Laws of 1979 ex. sess. as amended by section 1, chapter 139, Laws of 1983 and RCW 46.10.220 are each amended to read as follows:

(1) There is created in the Washington state parks and recreation commission a snowmobile advisory committee to advise the commission regarding the administration of this chapter.

(2) The purpose of the committee is to assist and advise the commission in the planned development of snowmobile facilities and programs.

(3) The committee shall consist of:

(a) Six interested snowmobilers, appointed by the commission; each such member shall be a resident of one of the six geographical areas throughout this state where snowmobile activity occurs, as defined by the commission;

(b) Three representatives of the nonsnowmobiling public, appointed by the commission; and

(c) One representative of the department of natural resources, one representative of the department of game, and one representative of the Washington state association of counties; each of whom shall be appointed by the director of such department or association.

(4) Terms of the members appointed under (3)(a) and (b) of this section shall commence on July 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term: PROVIDED, That the first such members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(5) Members of the committee appointed under (3)(a) and (b) of this section shall be reimbursed for travel expenses as provided in RCW 43.03-.050 and 43.03.060 as now or hereafter amended. Expenditures under this subsection shall be from the snowmobile account created by RCW 46.10.075.

(6) The committee may meet at times and places fixed by the committee. The committee shall meet not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. One of the meetings shall be coincident with a meeting of the commission at which the committee shall provide a report to the commission. The chairman of the committee shall be chosen under rules adopted by the committee from those members appointed under (3)(a) and (b) of this section.

(7) The Washington state parks and recreation commission shall serve as recording secretary to the committee. A representative of the department of licensing shall serve as an ex officio member of the committee and shall be notified of all meetings of the committee. The recording secretary and the ex officio member shall be nonvoting members.

(8) The committee shall adopt rules to govern its proceedings.

~~((9) The snowmobile advisory committee of the Washington state parks and recreation commission and its powers and duties shall terminate on June 30, 1989, and shall be subject to all of the processes provided in RCW 43.131.010 through 43.131.110 as now existing or hereafter amended.))~~

***NEW SECTION.** Sec. 10. The following acts or parts of acts are each repealed:

(1) *Section 20, chapter 99, Laws of 1979, section 1, chapter 334, Laws of 1981 and RCW 43.131.187;*

(2) *Section 62, chapter 99, Laws of 1979, section 2, chapter 334, Laws of 1981 and RCW 43.131.188;*

(3) *Section 21, chapter 99, Laws of 1979, section 19, chapter 125, Laws of 1984 and RCW 43.131.189;*

(4) *Section 63, chapter 99, Laws of 1979, section 20, chapter 125, Laws of 1984, section 2, chapter 110, Laws of 1985 and RCW 43.131.190;*

(5) *Section 32, chapter 99, Laws of 1979, section 3, chapter 22, Laws of 1983 and RCW 43.131.211;*

(6) *Section 74, chapter 99, Laws of 1979, section 4, chapter 22, Laws of 1983 and RCW 43.131.212;*

(7) *Section 37, chapter 99, Laws of 1979, section 4, chapter 259, Laws of 1984 and RCW 43.131.221;*

(8) *Section 79, chapter 99, Laws of 1979, section 5, chapter 259, Laws of 1984 and RCW 43.131.222;*

(9) *Section 26, chapter 197, Laws of 1983 and RCW 43.131.305;*

(10) *Section 52, chapter 197, Laws of 1983 and RCW 43.131.306;*

- (11) Section 27, chapter 197, Laws of 1983 and RCW 43.131.307;
- (12) Section 22, chapter 91, Laws of 1983 and RCW 43.131.313;
- (13) Section 23, chapter 91, Laws of 1983 and RCW 43.131.314;
- (14) Section 11, chapter 337, Laws of 1981 and RCW 67.08.910;
- (15) Section 1, chapter 133, Laws of 1981 and RCW 43.101.850;
- (16) Section 19, chapter 43, Laws of 1981 and RCW 18.39.910; and
- (17) Section 9, chapter 295, Laws of 1981 and RCW 43.21F.900.

*Sec. 10 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to sections 10(1) and (2) of Engrossed Substitute House Bill No. 1333, entitled:

"AN ACT Relating to the deferring or deleting of the proposed termination and repeal of agencies and programs."

Sections 10(1) and (2) would repeal the requirement that the Cemetery Board be subject to sunset review by the Legislature in 1987.

The Cemetery Board is an anomaly with respect to its organizational placement in state government. It is an independent state agency, whereas nearly every other business and occupational regulatory board is placed within a larger agency for administrative purposes. It is also a very small agency, with only one full-time employee.

I recently proposed to the Legislature that the Cemetery Board and two other similar boards be transferred to the Department of Licensing for administrative support. This consolidation proposal would have aligned the Cemetery Board with related regulatory programs such as pre-need sales, real estate, securities, and embalmers and funeral directors. In addition, the Cemetery Board could have taken advantage of the administrative support services offered by full-time personnel in the Department of Licensing.

The sunset review process will afford an excellent opportunity to review the organizational placement of the Cemetery Board. I, therefore, do not believe that this opportunity to systematically review the operations and organizational placement of the Board should be repealed.

With the exception of sections 10(1) and (2), Engrossed Substitute House Bill No. 1333 is approved."

CHAPTER 271

[Substitute House Bill No. 1458]

PUBLIC WATER SUPPLY SYSTEMS—PENALTY AND COMPLIANCE
PROVISIONS

AN ACT Relating to local boards of health and the department of social and health services enforcing laws relating to public water supply systems; adding a new section to chapter 34.12 RCW; adding a new chapter to Title 70 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The purpose of this chapter is to authorize local boards of health and the department of social and health services to impose civil penalties for specified acts or omissions or for disobeying an order to comply with regulations relating to public water supply systems. Conformance with laws and regulations to preserve and protect the purity of drinking water in our public water systems is of utmost importance.

NEW SECTION. Sec. 2. 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.
- (3) "Public water supply system" has the meaning in RCW 70.119.020.
- (4) "Order" means a written direction to comply with a provision of the regulations 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) "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).

NEW SECTION. Sec. 3. (1) As limited by section 4 of this act, the department may impose penalties for violations of laws or regulations that are determined by the health officer to be an imminent or actual public health emergency.

(2) As limited by section 4 of this act, 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 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.

NEW SECTION. Sec. 4. (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 section 3 of this act 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 the violation with reasonable particularity. Within fifteen 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.

(3) Any penalty imposed by this section 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.

(4) If the amount of any penalty is not paid within thirty days after it becomes due and payable, the attorney general, upon the request of the secretary of the department, shall bring an action in the name of the state

of Washington in the superior court of Thurston county, or of any county in which such violator may do business, to recover such penalty. 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) All penalties imposed under this section shall be payable to the state treasury and credited to the general fund.

NEW SECTION. Sec. 5. 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 sections 3 and 4 of this act, 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.

***NEW SECTION.** Sec. 6. *A new section is added to chapter 34.12 RCW to read as follows:*

Appeals from penalties imposed by the department of social and health services or a local board of health under chapter 70.-- RCW (sections 1 through 5 of this act) shall be made directly to the office of administrative appeals within thirty days of the imposition of the penalty. Decisions by an administrative law judge shall be directly appealable to the Thurston county superior court or the superior court of the county in which the public water supply system is located. Such appeals must be filed within thirty days of the decision by the administrative law judge.

The costs incurred by the office of administrative hearings in hearing such appeals and rendering such opinions shall be paid by the department of social and health services for appeals from penalties imposed by the department, and by the local board of health for appeals from penalties imposed by the local board of health.

*Sec. 6 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act shall constitute a new chapter in Title 70 RCW.

Passed the House January 28, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to section 6, Substitute House Bill No. 1458, entitled:

"AN ACT Relating to local boards of health and the department of social and health services enforcing laws relating to public water supply systems."

Section 6 of this bill would significantly expand the authority of administrative law judges, turning them into a new arm of the judiciary. These judges now have the authority to issue a proposed decision. This section would give them authority to make a final decision which could be appealed only to the courts.

This new authority is not necessary or justified. Section 6 would also create a new appeals process outside the provisions of the state's Administrative Procedure Act. The Administrative Procedure Act has made agency actions more uniform and this uniformity is more understandable to the state's citizens. For these reasons, I have vetoed section 6.

With the exception of section 6, Substitute House Bill No. 1458 is approved.*

CHAPTER 272

[House Bill No. 1647]

PUBLIC DISCLOSURE COMMISSION—SUNSET PROVISIONS MODIFIED

AN ACT Relating to the sunset termination and repeal of the public disclosure commission, of the powers and duties of the commission, and of the programs administered or enforced by the commission; amending RCW 43.131.269 and 43.131.270; and reenacting and amending RCW 42.17.240.

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

Sec. 1. Section 8, chapter 197, Laws of 1983 and RCW 43.131.269 are each amended to read as follows:

The public disclosure commission and its powers and duties shall be terminated on June 30, (~~(+1986)~~) 1992, as provided in RCW 43.131.270.

Sec. 2. Section 34, chapter 197, Laws of 1983 and RCW 43.131.270 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, (~~(+1987)~~) 1993:

(1) Section 1, chapter 1, Laws of 1973, section 1, chapter 294, Laws of 1975 1st ex. sess. and RCW 42.17.010;

(2) Section 3, chapter 1, Laws of 1973, section 2, chapter 313, Laws of 1977 ex. sess., section 2, chapter 367, Laws of 1985 and RCW 42.17.030;

(3) Section 4, chapter 1, Laws of 1973, section 3, chapter 294, Laws of 1975 1st ex. sess., section 1, chapter 336, Laws of 1977 ex. sess., section 1, chapter 147, Laws of 1982 and RCW 42.17.040;

(4) Section 5, chapter 1, Laws of 1973, section 2, chapter 147, Laws of 1982, section 3, chapter 367, Laws of 1985 and RCW 42.17.050;

(5) Section 6, chapter 1, Laws of 1973, section 4, chapter 294, Laws of 1975 1st ex. sess., section 3, chapter 313, Laws of 1977 ex. sess., section 3, chapter 147, Laws of 1982, section 4, chapter 367, Laws of 1985 and RCW 42.17.060;

(6) Section 5, chapter 294, Laws of 1975 1st ex. sess., section 4, chapter 147, Laws of 1982 and RCW 42.17.065;

(7) Section 9, chapter 112, Laws of 1975-'76 2nd ex. sess., section 5, chapter 147, Laws of 1982 and RCW 42.17.067;

(8) Section 7, chapter 1, Laws of 1973, section 5, chapter 367, Laws of 1985 and RCW 42.17.070;

(9) Section 8, chapter 1, Laws of 1973, section 6, chapter 294, Laws of 1975 1st ex. sess., section 6, chapter 147, Laws of 1982 and RCW 42.17.080;

(10) Section 9, chapter 1, Laws of 1973, section 7, chapter 294, Laws of 1975 1st ex. sess., section 3, chapter 112, Laws of 1975-'76 2nd ex. sess., section 2, chapter 336, Laws of 1977 ex. sess., section 7, chapter 147, Laws of 1982, section 1, chapter 96, Laws of 1983 and RCW 42.17.090;

(11) Section 3, chapter 336, Laws of 1977 ex. sess., section 8, chapter 147, Laws of 1982 and RCW 42.17.095;

(12) Section 10, chapter 1, Laws of 1973, section 4, chapter 112, Laws of 1975-'76 2nd ex. sess., section 9, chapter 147, Laws of 1982, section 6, chapter 367, Laws of 1985 and RCW 42.17.100;

(13) Section 1, chapter 176, Laws of 1983, section 1, chapter 359, Laws of 1985 and RCW 42.17.105;

(14) Section 11, chapter 1, Laws of 1973, section 5, chapter 112, Laws of 1975-'76 2nd ex. sess. and RCW 42.17.110;

~~((+4))~~ (15) Section 12, chapter 1, Laws of 1973, section 8, chapter 294, Laws of 1975 1st ex. sess. and RCW 42.17.120;

~~((+5))~~ (16) Section 6, chapter 336, Laws of 1977 ex. sess., section 7, chapter 367, Laws of 1985 and RCW 42.17.125;

~~((+6))~~ (17) Section 15, chapter 1, Laws of 1973, section 10, chapter 147, Laws of 1982 and RCW 42.17.150;

~~((+7))~~ (18) Section 21, chapter 294, Laws of 1975 1st ex. sess., section 11, chapter 147, Laws of 1982, section 8, chapter 367, Laws of 1985 and RCW 42.17.155;

~~((+8))~~ (19) Section 16, chapter 1, Laws of 1973, section 9, chapter 294, Laws of 1975 1st ex. sess., section 4, chapter 313, Laws of 1977 ex. sess., section 12, chapter 147, Laws of 1982 and RCW 42.17.160;

~~((+9))~~ (20) Section 17, chapter 1, Laws of 1973, section 10, chapter 294, Laws of 1975 1st ex. sess., section 5, chapter 313, Laws of 1977 ex. sess., section 13, chapter 147, Laws of 1982, section 9, chapter 367, Laws of 1985 and RCW 42.17.170;

(21) Section 2, chapter 359, Laws of 1985 and RCW 42.17.175;

~~((+20))~~ (22) Section 18, chapter 1, Laws of 1973, section 11, chapter 294, Laws of 1975 1st ex. sess., section 6, chapter 34, Laws of 1984 and RCW 42.17.180;

~~((+21))~~ (23) Section 19, chapter 1, Laws of 1973, section 12, chapter 294, Laws of 1975 1st ex. sess., section 6, chapter 313, Laws of 1977 ex. sess., section 1, chapter 265, Laws of 1979 ex. sess. and RCW 42.17.190;

~~((+22))~~ (24) Section 20, chapter 1, Laws of 1973, section 10, chapter 367, Laws of 1985 and RCW 42.17.200;

~~((23))~~ (25) Section 21, chapter 1, Laws of 1973 and RCW 42.17.210;

~~((24))~~ (26) Section 22, chapter 1, Laws of 1973 and RCW 42.17.220;

~~((25))~~ (27) Section 23, chapter 1, Laws of 1973, section 14, chapter 147, Laws of 1982 and RCW 42.17.230;

~~((26))~~ (28) Section 9, chapter 10, Laws of 1982, section 27, chapter 161, Laws of 1983, section 1, chapter 34, Laws of 1984, section 14, chapter 125, Laws of 1984 and RCW 42.17.240;

(29) Section 2, chapter 34, Laws of 1984, section 8, chapter 6, Laws of 1985 and RCW 42.17.2401;

~~((27))~~ (30) Section 42, chapter 126, Laws of 1979 ex. sess., section 3, chapter 34, Laws of 1984 and RCW 42.17.241;

~~((28))~~ (31) Section 4, chapter 336, Laws of 1977 ex. sess. and RCW 42.17.242;

~~((29))~~ (32) Section 5, chapter 336, Laws of 1977 ex. sess. and RCW 42.17.243;

~~((30))~~ (33) Section 10, chapter 112, Laws of 1975-'76 2nd ex. sess., section 1, chapter 102, Laws of 1981, section 1, chapter 213, Laws of 1983 and RCW 42.17.245;

~~((31))~~ (34) Section 35, chapter 1, Laws of 1973, section 23, chapter 294, Laws of 1975 1st ex. sess., section 93, chapter 34, Laws of 1975-'76 2nd ex. sess., section 8, chapter 112, Laws of 1975-'76 2nd ex. sess., section 15, chapter 147, Laws of 1982, section 74, chapter 287, Laws of 1984 and RCW 42.17.350;

~~((32))~~ (35) Section 36, chapter 1, Laws of 1973 and RCW 42.17.360;

~~((33))~~ (36) Section 37, chapter 1, Laws of 1973, section 25, chapter 294, Laws of 1975 1st ex. sess., section 7, chapter 336, Laws of 1977 ex. sess., section 7, chapter 34, Laws of 1984, section 11, chapter 367, Laws of 1985 and RCW 42.17.370;

(37) Section 1, chapter 294, Laws of 1983 and RCW 42.17.375;

~~((34))~~ (38) Section 38, chapter 1, Laws of 1973, section 26, chapter 294, Laws of 1975 1st ex. sess., section 196, chapter 35, Laws of 1982 and RCW 42.17.380;

~~((35))~~ (39) Section 12, chapter 112, Laws of 1975-'76 2nd ex. sess., section 16, chapter 147, Laws of 1982, section 12, chapter 367, Laws of 1985 and RCW 42.17.395;

~~((36))~~ (40) Section 13, chapter 112, Laws of 1975-'76 2nd ex. sess., section 17, chapter 147, Laws of 1982 and RCW 42.17.397;

~~((37))~~ (41) Section 1, chapter 60, Laws of 1982, section 13, chapter 367, Laws of 1985 and RCW 42.17.405;

~~((38))~~ (42) Section 42, chapter 1, Laws of 1973, section 2, chapter 176, Laws of 1983 and RCW 42.17.420;

~~((39))~~ (43) Section 43, chapter 1, Laws of 1973 and RCW 42.17-.430; and

~~((40))~~ (44) Section 45, chapter 1, Laws of 1973 and RCW 42.17.450.

***Sec. 3. Section 9, chapter 10, Laws of 1982 as last amended by section 1, chapter 34, Laws of 1984 and by section 14, chapter 125, Laws of 1984 and RCW 42.17.240 are each reenacted and amended to read as follows:**

(1) Every elected official and every executive state officer shall after January 1st and before April 15th of each year file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st.

(2) Every candidate shall within two weeks of becoming a candidate file with the commission a statement of financial affairs for the preceding twelve months.

(3) Every person appointed to a vacancy in an elective office or executive state officer position shall within two weeks of being so appointed file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) For the purposes of this section, the term "executive state officer" includes those listed in RCW 43.17.020 and those listed in RCW 42.17.2401.

(8) This section does not apply to incumbents or candidates for a federal office or the office of precinct committeeman.

(9) "Executive state officers" as defined in RCW 42.17.2401 are prohibited from filing as a registered lobbyist for any entity other than to fulfill their responsibilities as an executive state officer.

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

Passed the House March 10, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to one section, House Bill No. 1647, entitled:

"AN ACT Relating to the sunset termination and repeal of the public disclosure commission, of the powers and duties of the commission, and of its programs administered or enforced by the commission."

Section 3 of this bill would have restricted registered lobbyists from serving as executive state officers as that term is defined by RCW 42.17.2401 in the Public Disclosure Act. I do not believe that there has been a demonstrated need for this legislation or that the far-reaching effects have been recognized. Leaving this provision in the legislation would exclude persons who are appointed to any of the many boards or commissions of this state. Most of these positions are part-time and only minimally compensated by expense reimbursement. In this regard, section 3 would unfairly restrict the activities of those who serve on the state's boards of regents, boards of trustees and the numerous other boards and commissions.

With the exception of section 3, House Bill No. 1647 is approved."

CHAPTER 273

[Senate Bill No. 4506]

STATE BOARD OF HEALTH—SUNSET PROVISIONS REPEALED

AN ACT Relating to the state board of health; creating a new section; and repealing RCW 43.131.213 and 43.131.214.

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

****NEW SECTION. Sec. 1. The office of financial management, in cooperation with the state board of health, the social and health services committee of the house of representatives, and the human services and corrections committee of the senate, shall study the desirability and feasibility of consolidating into a single state agency existing public health and environmental health services presently administered by the departments of social and health services, ecology, agriculture, labor and industries, and fisheries.***

The office of financial management shall report to the appropriate committees of the legislature no later than December 1, 1986, on the results of the study. The report shall include: Recommendations on consolidation; any necessary legislation to implement the consolidation; and other options considered, but not adopted and the reason for rejection.

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

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) Section 33, chapter 99, Laws of 1979, section 16, chapter 235, Laws of 1983, section 29, chapter 213, Laws of 1985 and RCW 43.131.213; and

(2) Section 75, chapter 99, Laws of 1979, section 17, chapter 235, Laws of 1983, section 30, chapter 213, Laws of 1985 and RCW 43.131.214.

Passed the Senate March 6, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to section 1, Senate Bill No. 4506, entitled:

"AN ACT Relating to the state board of health."

Section 1 of this bill would require the Office of Financial Management to conduct a study of the feasibility of consolidating public health and environmental health functions into a single state agency. An extensive study of this issue has already been completed, conducted by a joint committee of the Legislature. Another study of this same topic is unnecessary and would be duplicative. I have, however, directed my Executive Cabinet to review these programs and to develop a plan for a more efficient and effective alignment of public health and environmental health services.

For this reason, I have vetoed this section. With the exception of section 1, Senate Bill No. 4506 is approved."

CHAPTER 274

[Substitute Senate Bill No. 4596]

MENTAL HEALTH SERVICES FOR CHILDREN

AN ACT Relating to community mental health services; amending RCW 71.24.015, 71.24.025, 71.24.035, 71.24.045, and 71.24.155; adding new sections to chapter 71.24 RCW; creating a new section; and providing an effective date.

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

Sec. 1. Section 2, chapter 204, Laws of 1982 and RCW 71.24.015 are each amended to read as follows:

It is the intent of the legislature to establish a community mental health program which provides for:

(1) Access to mental health services for ((residents)) adults and children of the state who are acutely mentally ill, seriously disturbed, or chronically mentally ill, which services recognize the special needs of underserved populations, including minorities, children, the elderly, disabled, and low-income persons. It is also the purpose of this chapter to ensure that children in need of mental health care and treatment receive the care and treatment appropriate to their developmental level, and to enable treatment decisions to be made in response to clinical needs and in accordance with sound professional judgment while also recognizing parents' rights to participate in treatment decisions for their children;

(2) Accountability of services through state-wide standards for management, monitoring, and reporting of information;

(3) Minimum service delivery standards;

(4) Priorities for the use of available resources for the care of the mentally ill; ~~((and))~~

(5) Coordination of services within the department, including those divisions within the department that provide services to children, between the department and the office of the superintendent of public instruction, and among state mental hospitals, county authorities, community mental health services, and other support services, which may also include the families of the mentally ill, and other service providers; and

(6) Coordination of services aimed at reducing duplication in service delivery and promoting complementary services among all entities that provide mental health services to adults and children.

Sec. 2. Section 3, chapter 204, Laws of 1982 and RCW 71.24.025 are each amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020(2) or, in the case of a child, as defined in RCW 71.34.020(12);

(b) Being gravely disabled as defined in RCW 71.05.020(1) or, in the case of a child, as defined in RCW 71.34.020(8); or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020(3) or, in the case of a child, as defined in RCW 71.34.020(11).

(2) "Available resources" means those funds which shall be appropriated under this chapter by the legislature during any biennium for the purpose of providing community mental health programs under RCW 71.24.045.

(3) "Licensed service provider" means an entity licensed by the department according to state minimum standards or individuals licensed under chapter 18.71, 18.83, or 18.88 RCW.

(4) "Child" means a person under the age of eighteen years.

(5) "Chronically mentally ill person" means a ((person)) child or adult who has a mental disorder, in the case of a child as defined by chapter 71.34 RCW, and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years or, in the case of a child, has been placed by the department or its designee two or more times outside of the home, where the placements are related to a mental disorder, as defined in chapter 71.34 RCW, and where the placements progress toward a more restrictive setting. Placements by the department include but are not limited to placements by child protective services and child welfare services;

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year;
 ((or))

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended, and shall include school attendance in the case of a child; or

(d) In the case of a child, has been subjected to continual distress as indicated by repeated physical or sexual abuse or neglect.

~~((5))~~ (6) "Community mental health program" means all mental health services established by a county authority.

~~((6))~~ (7) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

~~((7))~~ (8) "Department" means the department of social and health services.

~~((8))~~ (9) "Mental health services" means ~~community services pursuant to RCW ((71.24.035(4)(b)))~~ 71.24.035(5)(b) and other services provided by the state for the mentally ill.

~~((9))~~ (10) "Mentally ill persons" and "the mentally ill" mean persons and conditions defined in subsections (1), ~~((4))~~ (5), and ~~((11))~~ (12) of this section.

~~((10))~~ (11) "Residential services" means a facility or distinct part thereof which provides food, clothing, and shelter, and may include day treatment services as defined in RCW 71.24.045, for acutely mentally ill, chronically mentally ill, or seriously disturbed persons as defined in this section. Such facilities include, but are not limited to, congregate care facilities providing mental health client services as stipulated by contract with the department beginning January 1, 1982.

~~((11))~~ (12) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or others as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a ~~((minor))~~ child diagnosed by a mental health professional, as defined in RCW 71.05.020, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

~~((+2))~~ (13) "Secretary" means the secretary of social and health services.

~~((+3))~~ (14) "State minimum standards" means: (a) Minimum requirements for management and delivery of mental health services as established by departmental rules and necessary to implement this chapter, including but not limited to county administration, licensing service providers, information, accountability, contracts, and services; and (b) minimum service requirements for licensed service providers for the provision of mental health services as established by departmental rules pursuant to chapter 34.04 RCW as necessary to implement this chapter, including, but not limited to: Qualifications for staff providing services directly to mentally ill persons; the intended result of each service for those priority groups identified in RCW ~~((71.24.035(4)(b)))~~ 71.24.035(5)(b); and the rights and responsibilities of persons receiving mental health services pursuant to this chapter.

Sec. 3. Section 4, chapter 204, Laws of 1982 and RCW 71.24.035 are each amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary may provide for public, client, and licensed service provider participation in developing the state mental health program.

(3) The secretary shall provide for participation in developing the state mental health program for children by including children's representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the county authority if a county fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

~~((+4))~~ (5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates county biennial needs assessments and county mental health service plans and state services for ~~((the))~~ mentally ill adults and children. The secretary may also develop a six-year state mental health plan;

(b) Assure that any county community mental health program provides access to treatment for the county's residents in the following order of priority: (i) The acutely mentally ill; (ii) the chronically mentally ill; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Consultation and education services; and

(F) Community support services for acutely and chronically mentally ill persons which include: (I) Discharge planning for clients leaving state mental hospitals (~~and~~), other acute care inpatient facilities, inpatient psychiatric facilities for persons under twenty-one years of age, and other children's mental health residential treatment facilities; (II) sufficient contacts with clients, families, schools, or significant others to provide for an effective program of community maintenance; and (III) medication monitoring.

(c) Develop and promulgate rules establishing state minimum standards for the management and delivery of mental health services including, but not limited to:

(i) Licensed service providers;

(ii) County administration;

(iii) Information required to assure accountability of services delivered to the mentally ill; and

(iv) Residential and inpatient services, if a county chooses to provide such optional services;

(d) Assure coordination of services consistent with state minimum standards for individuals who are released from a state hospital into the community to assure a continuum of care;

(e) Assure that the special needs of minorities, (~~children~~), the elderly, disabled, and low-income persons are met within the priorities established in (~~RCW 71.24.035(4)(b)~~) subsection (5)(b) of this section;

(f) Establish a standard contract or contracts, consistent with state minimum standards, which shall be used by the counties;

(g) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of county authorities and licensed service providers;

(h) Develop and maintain an information system to be used by the state and counties which shall include a tracking method which allows the department to identify mental health clients' participation in any mental health service or public program. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in RCW 71.05.390, 71.05.400, 71.05.410, 71.05.420, 71.05.430, and 71.05.440;

(i) License service providers who meet state minimum standards;

(j) Establish criteria to evaluate the performance of counties in administering mental health programs as established under this chapter. Evaluation of community mental health services shall include all categories of illnesses treated, all types of treatment given, the number of people treated, and costs related thereto; and

(k) Prior to September 1, 1982, adopt such rules as are necessary to implement this chapter pursuant to chapter 34.04 RCW: PROVIDED, That such rules shall be submitted to the appropriate committees of the legislature for review and comment prior to adoption.

~~((5))~~ (6) The secretary shall use available resources appropriated specifically for community mental health programs only for programs under RCW 71.24.045.

~~((6))~~ (7) The department shall propose in its biennial budget document the formulas used to distribute available resources to county authorities for the priorities listed in subsection ~~((4)(b))~~ (5)(b) of this section. The formula shall be based on the needs assessment required by RCW 71.24.045(1).

NEW SECTION. Sec. 4. A new section is added to chapter 71.24 RCW to read as follows:

By November 1, 1986, the department shall identify: (1) The number of children in each priority group, as defined by this chapter, who are receiving mental health services funded in part or in whole under this chapter, (2) the total amount of funds under this chapter used for children's mental health services, (3) an estimate of the number of unserved children in each priority group, and (4) the estimated cost of serving these additional children and their families.

Sec. 5. Section 5, chapter 204, Laws of 1982 and RCW 71.24.045 are each amended to read as follows:

The county authority shall:

(1) Submit biennial needs assessments beginning January 1, 1983, and mental health service plans which incorporate all services provided for by the county authority consistent with state minimum standards and which provide access to treatment for the county's residents who are acutely mentally ill, chronically mentally ill, or seriously disturbed. The county program shall provide:

(a) Outpatient services;

(b) Emergency care services for twenty-four hours per day;

(c) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(d) Screening for patients being considered for admission to state mental health facilities to determine appropriateness of admission;

(e) Consultation and education services;

(f) Residential and inpatient services, if the county chooses to provide such optional services; and

(g) Community support services for acutely and chronically mentally ill persons which include: (i) Discharge planning for clients leaving state mental hospitals ~~((and))~~, other acute care inpatient facilities, inpatient psychiatric facilities for persons under twenty-one years of age, and other children's mental health residential treatment facilities; (ii) sufficient contacts with clients, schools, families, or significant others to provide for an effective program of community maintenance; and (iii) medication monitoring.

The county shall develop the biennial needs assessment based on clients to be served, services to be provided, and the cost of those services, and may include input from the public, clients, and licensed service providers. Each county authority may appoint a county mental health advisory board which shall review and provide comments on plans and policies developed by the county authority under this chapter. The composition of the board shall be broadly representative of the demographic character of the county and the mentally ill persons served therein. Length of terms of board members shall be determined by the county authority;

(2) Contract as needed with licensed service providers. The county authority may, in the absence of a licensed service provider entity, become a licensed service provider entity pursuant to minimum standards required for licensing by the department for the purpose of providing services not available from licensed service providers;

(3) Operate as a licensed service provider if it deems that doing so is more efficient and cost effective than contracting for services. When doing so, the county authority shall comply with rules promulgated by the secretary that shall provide measurements to determine when a county provided service is more efficient and cost effective. Whenever a county authority chooses to operate as a licensed service provider, the secretary shall act as the county authority for that service.

(4) Monitor and perform biennial fiscal audits of licensed service providers who have contracted with the county to provide services required by this chapter. The monitoring and audits shall be performed by means of a formal process which insures that the licensed service providers and professionals designated in this subsection meet the terms of their contracts, including the minimum standards of management and service delivery as established by the department;

(5) Assure that the special needs of minorities, ~~((children,))~~ the elderly, disabled, and low-income persons are met within the priorities established in RCW ~~((71.24.035(4)(b)))~~ 71.24.035(5)(b);

(6) Maintain patient tracking information in a central location for the chronically mentally ill;

(7) Use not more than two percent of state-appropriated community mental health funds, which shall not include federal funds, to administer community mental health programs under RCW 71.24.155: PROVIDED, That county authorities serving a county or combination of counties whose

population is equal to or greater than that of a county of the first class may be entitled to sufficient state-appropriated community mental health funds to employ up to one full-time employee or the equivalent thereof in addition to the two percent limit established in this subsection when such employee is providing staff services to a county mental health advisory board; ((and))

(8) Coordinate services for individuals who have received services through the community mental health system and who become patients at a state mental hospital.

NEW SECTION. Sec. 6. A new section is added to chapter 71.24 RCW to read as follows:

By January 1, 1987, and each odd-numbered year thereafter, the county authority shall identify: (1) The number of children in each priority group, as defined by this chapter, who are receiving mental health services funded in part or in whole under this chapter, (2) the amount of funds under this chapter used for children's mental health services, (3) an estimate of the number of unserved children in each priority group, and (4) the estimated cost of serving these additional children and their families.

NEW SECTION. Sec. 7. A new section is added to chapter 71.24 RCW to read as follows:

Nothing in this chapter shall be construed as prohibiting the secretary from consolidating within the department children's mental health services with other departmental services related to children.

***NEW SECTION.** Sec. 8. *The secretary of social and health services shall study the desirability and feasibility of consolidating children and family services presently provided by the department. The analysis of consolidation shall include, at a minimum, children's services related to: Mental illness; juvenile rehabilitation; maternal and child health; crippled children; women, infants, and children; alcohol and substance abuse; child welfare; children's protection; developmental disabilities; nutrition; and learning problems. The scope of this review shall include prevention and early intervention services, in-home care, residential care, and institutional care.*

The secretary and the superintendent of public instruction shall examine ways to more closely link children and family services with the public school system.

The secretary shall report to the social and health services committee of the house of representatives and the human services and corrections committee of the senate no later than December 1, 1986. The report shall include an analysis of consolidating these services, ways to improve linkages with the public school system, and appropriate recommendations. It shall also include all options considered but not accepted and reasons for rejection, and the legislative and organizational changes necessary for the implementation of the recommendations.

*Sec. 8 was vetoed, see message at end of chapter.

Sec. 9. Section 9, chapter 204, Laws of 1982 and RCW 71.24.155 are each amended to read as follows:

Grants shall be made by the department to counties for community mental health programs totaling not less than ninety-five percent of available resources. The department may use up to forty percent of the remaining five percent to provide community demonstration projects, including early intervention or primary prevention programs for children, and the remainder shall be for emergency needs and technical assistance under this chapter. The department shall provide a biennial accounting of the use of these funds to the ways and means committees of the senate and the house of representatives.

NEW SECTION. Sec. 10. A new section is added to chapter 71.24 RCW to read as follows:

The department shall waive postgraduate educational requirements applicable to mental health professionals under this chapter for those persons who have a bachelor's degree and on the effective date of this act:

(1) Are employed by an agency subject to licensure under this chapter, the community mental health services act, in a capacity involving the treatment of mental illness; and

(2) Have at least ten years of full-time experience in the treatment of mental illness.

NEW SECTION. Sec. 11. Sections 1, 2, 3, 5, and 9 of this act shall take effect on July 1, 1987.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to section 8, Substitute Senate Bill No. 4596, entitled:

"AN ACT Relating to community health services."

Section 8 of this bill requires that the Department of Social and Health Services undertake a study of possible reorganization of the department. The Secretary of Social and Health Services has been actively evaluating agency reorganization for some time, and a great deal has already been accomplished in this effort. Also, the Secretary is available to the Legislature at any time to review the reorganization plans and receive feedback. Therefore, this study requirement is unnecessary and would be duplicative of the work already in progress. For this reason, I have vetoed section 8.

With the exception of section 8, Substitute Senate Bill No. 4596 is approved."

CHAPTER 275

[Senate Bill No. 4712]

PUBLIC RECORDS—ORAL HISTORY PROGRAM

AN ACT Relating to public records; amending RCW 40.14.020; adding a new section to chapter 40.14 RCW; and making an appropriation.

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

Sec. 1. Section 2, chapter 246, Laws of 1957 as last amended by section 1, chapter 84, Laws of 1983 and RCW 40.14.020 are each amended to read as follows:

All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives and records management is established in the office of the secretary of state, and, under the administration of the state archivist, who shall have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

- (1) To manage the archives of the state of Washington;
- (2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;
- (3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;
- (4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;
- (5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;
- (6) To set standards by rule for the durability and permanence of records required by law or for other reasons to be filed and maintained permanently or for very long periods of time by state and local agencies;
- (7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;
- (8) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the

archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(9) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter;

(10) To conduct an oral history program to record and document the oral history of former members and staff of the Washington state legislature, former state government officials and personnel, and other citizens of interest through recording memoirs, processing and making transcripts of the tapes, and taking photographs. The tapes, transcripts, and photographs shall be indexed, shall be available for reference, and shall be properly preserved;

(11) To adopt rules under chapter 34.04 RCW to carry out the state archivist's duties under this chapter.

***NEW SECTION. Sec. 2. A new section is added to chapter 40.14 RCW to read as follows:**

(1) The oral history advisory committee is created.

(2) The committee shall be composed of the following ex officio members: The secretary of state, the state archivist, the secretary of the senate or the secretary's designee, and the chief clerk of the house of representatives or the chief clerk's designee. The committee shall be composed of the following appointed members: Two members of the senate with one from each major political party appointed by the president of the senate, two members of the house of representatives with one from each major political party appointed by the speaker of the house of representatives, and two private citizens appointed by majority vote of the other members of the committee. The appointed members shall be appointed for two-year terms. Vacancies shall be filled in the same manner as the appointments were made.

(3) Members of the committee shall serve without compensation. The nonlegislative members of the committee shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. The legislators who are members of the committee shall be reimbursed for travel expenses under RCW 44.04.120.

(4) The secretary of state is the chair of the committee.

(5) The committee shall meet at the call of the chair. A majority of the members constitute a quorum for the conduct of business.

(6) The committee shall provide advice to the state archivist on the operation of the oral history program under RCW 40.14.020.

*Sec. 2 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 3. The sum of twenty-nine thousand dollars, or so much thereof as may be necessary, is appropriated from the general fund

for the fiscal year ending June 30, 1987, to the secretary of state to carry out the oral history program under RCW 40.14.020.

Passed the Senate March 9, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to section 2, Senate Bill No. 4712, entitled:

"AN ACT Relating to public records; amending RCW 40.14.020; adding a new section to Chapter 40.14 RCW; and making an appropriation."

This bill would establish a new program to record and document the experience of former state officials. In addition, a new statutory advisory committee would be created.

I have vetoed section 2 which creates a new statutory advisory committee. After reviewing this matter, I find that the purposes and functions of this bill can be fulfilled without creating, in statute, an additional advisory body.

With the exception of section 2, Senate Bill No. 4712 is approved."

CHAPTER 276

[Engrossed Substitute House Bill No. 1587]
PORT DISTRICTS—EXPORT TRADE

AN ACT Relating to port district sponsored trade expansion projects; amending RCW 42.17.310 and 42.30.110; providing an expiration date; and adding a new chapter to Title 53 RCW.

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

NEW SECTION. Sec. 1. It is declared to be the public policy of the state to promote and preserve the economic well-being of the citizens of this state by creating opportunities for expanded participation in international trade by state businesses and expanding international trade through state ports. Increased international trade of state products creates and retains jobs, increases the state's tax base, and diversifies the state's economy. Port districts, through economies of scale, are uniquely situated to promote and expand international trade and provide greater opportunities for state businesses to participate in international trade.

The legislature finds that significant public benefit, in the form of increased employment and tax revenues, can be realized through export trading companies without lending the credit of port districts, and without capital investment of public funds by port districts. The legislature finds that the use of port district funds to promote and establish export trading companies under this chapter constitutes trade promotion and industrial development within the meaning of Article VIII, section 8 of the state Constitution.

It is the purpose of this chapter: (1) To stimulate greater participation by private businesses in international trade; (2) to authorize port districts to promote and facilitate international trade more actively; (3) to make export services more widely available; (4) to generate revenue for port districts; and (5) to develop markets for Washington state goods and services. Port sponsored export trading companies can also assist small to medium-sized companies in achieving economies of scale in order to expand into the export market.

It is the intent of this chapter to enhance export trade and not to create outside competition for existing Washington state businesses. The primary intent of a port sponsored export trading company is to increase exports of Washington state products.

This chapter shall not be construed as modifying or restricting any other powers granted to port districts by law. The legislature does not intend by the enactment of this chapter for port districts to use export trading companies to create unfair competition with private business.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Port district" means any port district other than a county-wide port district in a class A or AA county, established under Title 53 RCW.

(2) "Export services" means the following services when provided in order to facilitate the export of goods or services through Washington ports: International market research, promotion, consulting, marketing, legal assistance, trade documentation, communication and processing of foreign orders to and for exporters and foreign purchasers, financing, and contracting or arranging for transportation, insurance, warehousing, foreign exchange, and freight forwarding.

(3) "Export trading company" means an entity created by a port district under section 4 of this act.

(4) "Obligations" means bonds, notes, securities, or other obligations or evidences of indebtedness.

(5) "Person" means any natural person, firm, partnership, association, private or public corporation, or governmental entity.

NEW SECTION. Sec. 3. (1) Public port districts, formed under chapter 53.04 RCW are authorized to establish export trading companies and a company so formed may contract with other public ports, financial institutions, freight forwarders, and public or private concerns within or outside the state to carry out the purposes of this chapter. A port district may participate financially in only one export trading company.

(2) A port district proposing to establish an export trading company shall adopt a business plan with safeguards and limitations to ensure that any private benefit to be realized from the use of funds of the export trading company are incidental to the purposes of this chapter. The business plan shall be adopted only after public hearing and shall be reviewed at least

once every two years. Amendments to the plan shall be adopted only after public hearing. The business plan shall include:

(a) A description of export promotion activities to be conducted during the period of the plan;

(b) A proposed budget of operations which shall include an itemized list of estimated revenues and expenditures;

(c) A description of the safeguards and limitations which ensure that the export trading company will best be used to enhance international trade and produce public benefit in the form of employment, capital investment, and tax revenues;

(d) A description of private competitors which may be capable of providing the functions in the business plan; and

(e) Such other matters as may be determined by the port district.

(3) A port district, for the purpose of establishing or promoting an export trading company under this chapter, may provide financial assistance to the export trading company. A port district may not provide such assistance or services for more than five years or in an amount greater than five hundred thousand dollars.

***NEW SECTION.** Sec. 4. (1) For the purpose of promoting international trade, export trading companies formed under this chapter may provide export services through:

(a) Holding and disposing of goods in international trade;

(b) *Entering into contracts, joint ventures, brokerage or other agreements with any person for the distribution of goods in trade, or*

(c) Taking title to goods.

All such activities engaged in or pursued by an export trading company shall be charged for in accordance with the customs of the trade at competitive market rates.

(2) Nothing contained in this chapter may be construed to authorize an export trading company to own or operate directly or indirectly any business which provides freight-forwarding, insurance, foreign exchange, or warehousing services. Nothing contained in this chapter may be construed to permit an export trading company to engage in the business of transporting commodities by motor vehicle, barge, ship, or rail for compensation.

(3) (a) Proceedings to form a public corporation designated as an export trading company shall be initiated by a resolution of the board of commissioners of a port district adopting a charter for the corporation. The charter shall contain such provisions as are authorized by law and include provisions for a board of directors which shall conduct the affairs of the export trading company. The board of directors shall include no fewer than three nor more than five members, all appointed by the port district board of commissioners. Commissioners of the port shall be eligible to serve as members of the board and shall constitute a majority of the board of directors at all times. Unless a later date is specified, the resolution shall take

effect on the thirtieth day after adoption. The corporation shall be deemed formed for all purposes upon filing in the office of the secretary of state a certified copy of the effective resolution and the charter adopted by the resolution.

(b) In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the corporation, the corporation is conclusively presumed to be established and authorized to transact business and exercise its powers under this chapter upon proof of the adoption of the resolution creating the corporation by the governing body. A copy of the resolution duly certified by the secretary of the port district commission shall be admissible in evidence in any suit, action, or proceeding.

(c) A corporation created by a port district pursuant to this chapter may be dissolved by the district if the corporation (i) has no property to administer, other than funds or property, if any, to be paid or transferred to the district by which it was established; and (ii) all its outstanding obligations have been satisfied. Such a dissolution shall be accomplished by the governing body of the port district adopting a resolution providing for the dissolution.

(d) The creating port district may, at its discretion and at any time, alter or change the structure, organizational programs, or activities of the corporation, including termination of the corporation if contracts entered into by the corporation are not impaired. Subject to any contractual obligations, any net earnings of the corporation shall inure only to the benefit of the creating port district. Upon dissolution of the corporation, all assets and title to all property owned by the corporation shall vest in the creating port district.

(4) A port district may contract with an export trading company to provide services on a reimbursement basis at current business rates to the export trading company, including but not limited to accounting, legal, clerical, technical, and other administrative services. Separate accounting records prepared according to generally accepted accounting principles shall be maintained by the export trading company.

(5) Any obligation of an export trading company shall not in any manner be an obligation of the port district nor a charge upon any revenues or property of the port district.

(6) An export trading company may borrow money or contract indebtedness and pledge, in whole or in part, any of its revenues or assets not subject to prior liens or pledges. An export trading company may not pledge any revenue or property of a port district or other municipal corporation and no port district or other municipal corporation may pledge its revenues or property to the payment thereof. An export trading company has no power to issue general obligation bonds, levy taxes, or exercise power of eminent domain.

(7) An export trading company shall not import any goods or products grown, produced, or mined outside the state of Washington without concurrence of the director of the department of agriculture or the director of the department of trade and economic development, or both, nor shall it import timber without concurrence of the Washington department of trade and economic development. Concurrence as required in this section shall not be unreasonably withheld. The departments shall, by rule, provide a means whereby such concurrence may be sought. An export trading company shall not import goods or products for in-state sale in competition with products grown, mined, or produced in Washington state. The Washington public ports association shall, upon request, report to the legislative committee on economic development established in chapter 44.52 RCW with details of the impact of export trading companies on the state's economy.

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

NEW SECTION. Sec. 5. All financial and commercial information and records supplied by private persons to an export trading company with respect to export projects shall be kept confidential unless such confidentiality shall be waived by the party supplying the information or by all parties engaged in the discussion.

NEW SECTION. Sec. 6. An export trading company may apply for and hold a certificate of review provided for under 15 U.S.C. Secs. 4001 through 4021, the federal export trading company act of 1982.

Sec. 7. Section 31, chapter 1, Laws of 1973 as last amended by section 8, chapter 414, Laws of 1985 and RCW 42.17.310 are each amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, 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 sections 1 through 6 of this 1986 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 11, chapter 250, Laws of 1971 ex. sess. as last amended by section 2, chapter 366, Laws of 1985 and RCW 42.30.110 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or

employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

~~((f))~~ (g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

~~((g))~~ (h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

~~((h))~~ (i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

NEW SECTION. Sec. 9. Sections 1 through 6 of this act shall constitute a new chapter in Title 53 RCW.

NEW SECTION. Sec. 10. Sections 1 through 6 of this act shall expire July 1, 1991, and shall be subject to review under chapter 43.131 RCW.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 11, 1986.

Passed the Senate March 10, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to portions of section 4, Engrossed Substitute House Bill No. 1587, entitled:

"AN ACT Relating to port district sponsored trade expansion projects."

In passing the federal Export Trading Company Act of 1982, Congress recognized that "ETCs will periodically have to engage in importing, barter, third party

trade, and related activities." [See: Conference Report to accompany S. 734, Rept. No. 97-924, 97th Cong, 2nd Session (1982).]

Given this recognition of Export Trading Company functioning, the section 4(7) prohibition on importation of goods or products for in-state sale in competition with Washington grown, mined or produced products could prove to be economically crippling to the newly-created companies and could violate the purposes of the federal act, even though an import activity was incidental to an export trading company's principal exporting objectives and activity.

In addition, this section may violate federal trade treaties to which the United States is a signatory, such as the General Agreement on Trade and Tariffs. The section furthermore may be unconstitutional as it delegates legislative power to state agencies without sufficiently specific legislative standards.

The section would also be costly and difficult to implement for the following reasons:

1) In order to identify goods that compete with Washington products, the agencies named must identify all goods currently grown, produced or mined in Washington. This is a potentially overwhelming task.

2) The departments must be knowledgeable of all goods imported into the state under this section. Currently, no state system exists for collection and evaluation of this information.

3) The departments would have to make evaluations about competitiveness of all goods imported versus all goods currently grown, produced or mined in Washington. I do not believe these judgments are practical or appropriate for state agencies to make, given the lack of information and specific statutory direction as to what would be competition and how great the protection would be. The potential for conflict and disagreement would be high.

Clearly, the legislation's specific intent is to increase exports of Washington products and enhance export trade — it is not the purpose of the new law to create outside competition for Washington State businesses.

I commend the Legislature for its wisdom and leadership in enacting legislation to allow ports to take advantage of the Export Trading Company Act; such ventures have been successful in other regions of the country.

Section 4(1)(b) would authorize port districts to enter into contracts, joint ventures, brokerage or other agreements. This provision is redundant and would cause confusion in the interpretation of the provision. Section 3(1) of Engrossed Substitute House Bill No. 1587 provides the authority for port districts to establish export trading companies and to enter into contracts with other public and private organizations for the provision of services. Section 4(1)(b) of Engrossed Substitute House Bill No. 1587 restates the same authority.

With the exception of sections 4(1)(b) and 4(7), Engrossed Substitute House Bill No. 1587 is approved."

CHAPTER 277

[Engrossed Substitute House Bill No. 1678]

TELEPHONE SOLICITATION

AN ACT Relating to telephone solicitation; adding a new section to chapter 80.36 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that certain kinds of telephone solicitation are increasing and that these solicitations interfere

with the legitimate privacy rights of the citizens of the state. A study conducted by the utilities and transportation commission, as directed by the forty-ninth legislature, has found that the level of telephone solicitation in this state is significant to warrant regulatory action to protect the privacy rights of the citizens of the state. It is the intent of the legislature to clarify and establish the rights of individuals to reject unwanted telephone solicitations.

***NEW SECTION.** Sec. 2. A new section is added to chapter 80.36 RCW to read as follows:

(1) As used in this section, "telephone solicitation" means the unsolicited initiation of a telephone call by a commercial or nonprofit company or organization to a residential telephone customer and conversation for the purpose of encouraging a person to purchase property, goods, or services or soliciting donations of money, property, goods, or services. "Telephone solicitation" does not include:

(a) Calls made in response to a request or inquiry by the called party. This includes calls regarding an item that has been purchased by the called party from the company or organization during a period not longer than twelve months prior to the telephone contact;

(b) Calls made by a not-for-profit organization to its own list of bona fide or active members of the organization;

(c) Calls limited to polling or soliciting the expression of ideas, opinions, or votes; or

(d) Business-to-business contacts.

For purposes of this section, each individual real estate agent or insurance agent who maintains a separate list from other individual real estate or insurance agents shall be treated as a company or organization. For purposes of this section, an organization as defined in RCW 29.01.090 or 29.01.100 and organized pursuant to RCW 29.42.010 shall not be considered a commercial or nonprofit company or organization.

(2) A person making a telephone solicitation must identify him or herself and the company or organization on whose behalf the solicitation is being made and the purpose of the call within the first thirty seconds of the telephone call.

(3) If, at any time during the telephone contact, the called party states or indicates that he or she does not wish to be called again by the company or organization or wants to have his or her name and individual telephone number removed from the telephone lists used by the company or organization making the telephone solicitation, then:

(a) The company or organization shall not make any additional telephone solicitation of the called party at that telephone number within a period of at least one year; and

(b) The company or organization shall not sell or give the called party's name and telephone number to another company or organization:

PROVIDED, That the company or organization may return the list, including the called party's name and telephone number, to the company or organization from which it received the list.

(4) A violation of subsection (2) or (3) of this section is punishable by a fine of up to one thousand dollars for each violation.

(5) The attorney general may bring actions to enforce compliance with this section. For the first violation by any company or organization of this section, the attorney general shall notify the company with a letter of warning that the section has been violated. ***An action under this section shall be instituted for the second and subsequent violations by a company or organization.***

(6) A person aggrieved by a violation of this section may bring a civil action in superior court to enjoin future violations, to recover damages, or both. The court shall award damages of at least one hundred dollars for each individual violation of this section. If the aggrieved person prevails in a civil action under this subsection, the court shall award the aggrieved person reasonable attorneys' fees and cost of the suit.

(7) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by (a) annual inserts in the billing statements mailed to residential customers, or (b) conspicuous publication of the notice in the consumer information pages of local telephone directories.

*Sec. 2 was partially vetoed, see message at end of chapter.

Passed the House February 17, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to a portion of Substitute House Bill No. 1678, entitled:

"AN ACT Relating to telephone solicitations."

The last sentence of Substitute House Bill No. 1678 section 2(5), page 3, lines one and two, which requires the Attorney General to take action on second and subsequent violations by a company, conflicts with the first sentence of the same subsection which is permissive.

The legislation sets forth a scheme for controlling telephone solicitations. It sets standards for commercial telephone solicitations and allows consumers to remove their names from lists used to make these telephone calls.

Section 2(5) of the legislation deals with enforcement and is intended to give the Attorney General the discretion needed to enforce violations of the law. However, the last sentence of section 2(5) conflicts with that intent by requiring the Attorney General to take action on second and subsequent violations. I believe this unnecessarily limits the Attorney General's ability to determine the proper cause of action under the bill.

With the exception of the last sentence of section 2(5), Substitute House Bill No. 1678 is approved.*

CHAPTER 278

[Substitute Senate Bill No. 4486]

LOCAL GOVERNMENT—POWERS AND AUTHORITY—REVISIONS

AN ACT Relating to local government; amending RCW 36.01.010, 36.32.120, 35.22.280, 35.24.290, 35.27.370, 35A.11.020, 53.48.010, 85.05.360, 85.06.330, 85.08.210, 85.08.320, 85.16.030, 85.16.180, 85.20.070, 85.20.120, 85.22.060, 85.24.160, 85.32.140, 86.09.157, 85.38.010, 85.38.070, 86.09.430, 86.09.439, 86.09.562, 35.44.090, 86.09.151, 35.67.025, 35.92.021, 36.89.085, 36.94.145, 56.08.012, 86.15.160, 86.15.176, 90.03.500, and 90.03.510; reenacting and amending RCW 35.23.440 and 84.64.050; adding a new section to chapter 52.12 RCW; adding new sections to chapter 85.05 RCW; adding new sections to chapter 85.06 RCW; adding new sections to chapter 85.08 RCW; adding new sections to chapter 85.24 RCW; adding new sections to chapter 85.36 RCW; adding new sections to chapter 85.38 RCW; adding new sections to chapter 86.09 RCW; adding new sections to chapter 90.03 RCW; repealing RCW 85.05.290, 85.05.300, 85.05.310, 85.05.320, 85.05.330, 85.05.340, 85.05.480, 85.05.510, 85.05.520, 85.05.530, 85.06.170, 85.06.260, 85.06.270, 85.06.280, 85.06.290, 85.06.300, 85.06.310, 85.06.321, 85.06.322, 85.06.323, 85.06.324, 85.06.325, 85.06.326, 85.06.327, 85.06.328, 85.06.329, 85.08.240, 85.08.280, 85.09.010, 85.09.020, 85.09.030, 85.09.040, 85.09.050, 85.09.060, 85.09.070, 85.09.080, 85.09.090, 85.09.900, 85.20.080, 85.20.090, 85.20.100, 85.20.110, 85.20.120, 85.20.130, 85.22.070, 85.22.080, 85.22.090, 85.22.100, 85.22.110, 85.22.120, 85.24.230, 86.09.568, 86.09.571, 86.09.574, 86.09.577, 86.09.580, 86.09.583, 86.09.586, 86.09.589, 86.09.604, 86.09.607, 86.09.610, 86.09.613, 85.05.560, 85.05.570, 85.05.580, 85.05.590, 85.05.600, 85.06.510, 85.06.520, 85.06.530, 85.06.540, 85.07.020, 85.07.030, 85.08.580, 85.08.590, 85.08.600, 85.08.610, 85.08.620, 85.08.625, 85.36.010, 85.36.020, 85.36.030, 86.09.184, and 86.09.187; and prescribing penalties.

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

Sec. 1. Section 36.01.010, chapter 4, Laws of 1963 and RCW 36.01.010 are each amended to read as follows:

The several counties in this state shall have capacity as bodies corporate, to sue and be sued in the manner prescribed by law; to purchase and hold lands (~~within their own limits~~); to make such contracts, and to purchase and hold such personal property, as may be necessary to their corporate or administrative powers, and to do all other necessary acts in relation to all the property of the county.

Sec. 2. Section 36.32.120, chapter 4, Laws of 1963 as last amended by section 1, chapter 91, Laws of 1985 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 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 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. 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 justices of the peace.

Sec. 3. Section 35.22.280, chapter 7, Laws of 1965 as last amended by section 802, chapter 258, Laws of 1984 and RCW 35.22.280 are each amended to read as follows:

Any city of the first class shall have power:

(1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;

(2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;

(3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;

(4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;

(5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the

use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring water-works, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

(18) To provide for establishing and maintaining reform schools for juvenile offenders;

(19) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

(20) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

(21) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

(22) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

(23) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

(24) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

(25) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

(26) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

(27) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

(28) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

(29) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

(30) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

(31) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: PROVIDED, That no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

(32) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same: PROVIDED, That no license shall be granted to continue for longer than one year from the date thereof;

(33) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

(34) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

(35) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five thousand dollars or imprisonment in the city jail for one year, or both such fine and imprisonment. Such cities alternatively may provide that violations of ordinances constitute a civil violation subject to monetary penalties;

(36) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

(37) To provide in their respective charters for a method to propose and adopt amendments thereto.

Sec. 4. Section 35.23.440, chapter 7, Laws of 1965 as last amended by section 5, chapter 189, Laws of 1984 and by section 803, chapter 258, Laws of 1984 and RCW 35.23.440 are each reenacted and amended to read as follows:

The city council of each second class city shall have power and authority:

(1) Ordinances: To make and pass all ordinances, orders, and resolutions not repugnant to the Constitution of the United States or the state of Washington, or the provisions of this title, necessary for the municipal government and management of the affairs of the city, for the execution of the powers vested in said body corporate, and for the carrying into effect of the provisions of this title.

(2) License of shows: To fix and collect a license tax, for the purposes of revenue and regulation, on theatres, melodeons, balls, concerts, dances, theatrical, circus, or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participators; also all shows, billiard tables, pool tables, bowling alleys, exhibitions, or amusements.

(3) Hotels, etc., licenses: To fix and collect a license tax for the purposes of revenue and regulation on and to regulate all taverns, hotels, restaurants, banks, brokers, manufactories, livery stables, express companies and persons engaged in transmitting letters or packages, railroad, stage, and steamboat companies or owners, whose principal place of business is in such city, or who have an agency therein.

(4) Peddlers', etc., licenses: To license, for the purposes of revenue and regulation, tax, prohibit, suppress, and regulate all raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths, or sheds; and to regulate as authorized by state law all tipping houses, dram shops, saloons, bars, and barrooms.

(5) Dance houses: To prohibit or suppress, or to license and regulate all dance houses, fandango houses, or any exhibition or show of any animal or animals.

(6) License vehicles: To license for the purposes of revenue and regulation, and to tax hackney coaches, cabs, omnibuses, drays, market wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage, and property.

(7) Hotel runners: To license or suppress runners for steamboats, taverns, or hotels.

(8) License generally: To fix and collect a license tax for the purposes of revenue and regulation, upon all occupations and trades, and all and every kind of business authorized by law not heretofore specified: PROVIDED, That on any business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require.

(9) Riots: To prevent and restrain any riot or riotous assemblages, disturbance of the peace, or disorderly conduct in any place, house, or street in the city.

(10) Nuisances: To declare what shall be deemed nuisances; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing or maintaining the same, and to levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.

(11) Stock pound: To establish, maintain, and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city.

(12) Control of certain trades: To control and regulate slaughterhouses, washhouses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof.

(13) Street cleaning: To provide, by regulation, for the prevention and summary removal of all filth and garbage in streets, sloughs, alleys, back yards, or public grounds of such city, or elsewhere therein.

(14) Gambling, etc.: To prohibit and suppress all gaming and all gambling or disorderly houses, and houses of ill fame, and all immoral and indecent amusements, exhibitions, and shows.

(15) Markets: To establish and regulate markets and market places.

(16) Speed of railroad cars: To fix and regulate the speed at which any railroad cars, streetcars, automobiles, or other vehicles may run within the city limits, or any portion thereof.

(17) City commons: To provide for and regulate the commons of the city.

(18) Fast driving: To regulate or prohibit fast driving or riding in any portion of the city.

(19) Combustibles: To regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters.

(20) Property: To have, purchase, hold, use, and enjoy property of every name or kind whatsoever, and to sell, lease, transfer, mortgage, convey, control, or improve the same; to build, erect, or construct houses, buildings, or structures of any kind needful for the use or purposes of such city.

(21) Fire department: To establish, continue, regulate, and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also, to discontinue and disband said fire department, and to create, organize, establish, and maintain a paid fire department for such city.

(22) Water supply: To adopt, enter into, and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigation purposes therein.

(23) Overflow of water: To prevent the overflow of the city or to secure its drainage, and to assess the cost thereof to the property benefited.

(24) House numbers: To provide for the numbering of houses.

(25) Health board: To establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary and to provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace, and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments and to prohibit them within the city limits.

(26) Harbors and wharves: To build, alter, improve, keep in repair, and control the waterfront; to erect, regulate, and repair wharves, and to fix the

rate of wharfage and transit of wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing, and removing steamboats, sail vessels, rafts, barges, and all other watercraft; to fix the rate of speed at which steamboats and other steam watercraft may run along the waterfront of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourses or channels.

(27) License of steamers: To license steamers, boats, and vessels used in any watercourse in the city, and to fix and collect a license tax thereon.

(28) Ferry licenses: To license ferries and toll bridges under the law regulating the granting of such license.

(29) Penalty for violation of ordinances: To provide that violations of ordinances constitute a civil violation subject to monetary penalties or to determine and impose fines for forfeitures and penalties that shall be incurred for the breach or violation of any city ordinance, notwithstanding that the act constituting a violation of any such ordinance may also be punishable under the state laws, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto or provided by law, and to appropriate all such fines, penalties, and forfeitures for the benefit of the city; but no penalty to be enforced shall exceed for any offense the amount of five thousand dollars or imprisonment for one year, or both; and every violation of any lawful order, regulation, or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the state of Washington: PROVIDED, That violation of an order, regulation, or ordinance relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of an order, regulation, or ordinance equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

(30) Police department: To create and establish a city police; to prescribe their duties and their compensation; and to provide for the regulation and government of the same.

(31) Elections: To provide for conducting elections and establishing election precincts when necessary, to be as near as may be in conformity with the state law.

(32) Examine official accounts: To examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management, or disposition of moneys, property, or business of the city.

(33) Contracts: To make all appropriations, contracts, or agreements for the use or benefit of the city and in the city's name.

(34) Streets and sidewalks: To provide by ordinance for the opening, laying out, altering, extending, repairing, grading, paving, planking, graveling, macadamizing, or otherwise improving of public streets, avenues, and

other public ways, or any portion of any thereof; and for the construction, regulation, and repair of sidewalks and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks, and squares, and to enforce the observance thereof.

(35) Waterways: To clear, cleanse, alter, straighten, widen, fill up, or close any waterway, drain, or sewer, or any watercourse in such city when not declared by law to be navigable, and to assess the expense thereof, in whole or in part, to the property specially benefited.

(36) Sewerage: To adopt, provide for, establish, and maintain a general system of sewerage, draining, or both, and the regulation thereof; to provide funds by local assessments on the property benefited for the purpose aforesaid and to determine the manner, terms, and place of connection with main or central lines of pipes, sewers, or drains established, and compel compliance with and conformity to such general system of sewerage or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against persons and property, or either, for nonconformity to, or failure to comply with the provisions of such system and regulations or either.

(37) Buildings and parks: To provide for all public buildings, public parks, or squares, necessary or proper for the use of the city.

(38) Franchises: To permit the use of the streets for railroad or other public service purposes.

(39) Payment of judgments: To order paid any final judgment against such city, but none of its lands or property of any kind or nature, taxes, revenue, franchise, or rights, or interest, shall be attached, levied upon, or sold in or under any process whatsoever.

(40) Weighing of fuel: To regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office, and the fees he shall receive for his services: PROVIDED, That such fees shall in all cases be paid by the parties requiring such service.

(41) Hospitals, etc.: To erect and establish hospitals and pesthouses and to control and regulate the same.

(42) Waterworks: To provide for the erection, purchase, or otherwise acquiring of waterworks within or without the corporate limits of the city to supply such city and its inhabitants with water, and to regulate and control the use and price of the water so supplied.

(43) City lights: To provide for lighting the streets and all public places of the city and for furnishing the inhabitants of the city with gas, electric, or other light, and for the ownership, purchase or acquisition, construction, or maintenance of such works as may be necessary or convenient therefor:

PROVIDED, That no purchase of any such water plant or light plant shall be made without first submitting the question of such purchase to the electors of the city.

(44) Parks: To acquire by purchase or otherwise land for public parks, within or without the limits of the city, and to improve the same.

(45) Bridges: To construct and keep in repair bridges, and to regulate the use thereof.

(46) Power of eminent domain: In the name of and for the use and benefit of the city, to exercise the right of eminent domain, and to condemn lands and property for the purposes of streets, alleys, parks, public grounds, waterworks, or for any other municipal purpose and to acquire by purchase or otherwise such lands and property as may be deemed necessary for any of the corporate uses provided for by this title, as the interests of the city may from time to time require.

(47) To provide for the assessment of taxes: To provide for the assessment, levying, and collecting of taxes on real and personal property for the corporate uses and purposes of the city and to provide for the payment of the debts and expenses of the corporation.

(48) Local improvements: To provide for making local improvements, and to levy and collect special assessments on the property benefited thereby and for paying the same or any portion thereof; to determine what work shall be done or improvements made, at the expense, in whole or in part, of the adjoining, contiguous, or proximate property, and to provide for the manner of making and collecting assessments therefor.

(49) Cemeteries: To regulate the burial of the dead and to establish and regulate cemeteries, within or without the corporate limits, and to acquire lands therefor by purchase or otherwise.

(50) Fire limits: To establish fire limits with proper regulations and to make all needful regulations for the erection and maintenance of buildings or other structures within the corporate limits as safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in a safe condition; to regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained.

(51) Safety and sanitary measures: To require the owners of public halls, theaters, hotels, and other buildings to provide suitable means of exit and proper fire escapes; to provide for the cleaning and purification of watercourses and canals and for the draining and filling up of ponds on private property within its limits when the same shall be offensive to the senses or dangerous to the health, and to charge the expense thereof to the property specially benefited, and to regulate and control and provide for the prevention and punishment of the defilement or pollution of all streams running in or through its corporate limits and a distance of five miles beyond its corporate limits, and of any stream or lake from which the water supply of the

city is or may be taken and for a distance of five miles beyond its source of supply, and to make all quarantine and other regulations as may be necessary for the preservation of the public health and to remove all persons afflicted with any contagious disease to some suitable place to be provided for that purpose.

(52) To regulate liquor traffic: To regulate the selling or giving away of intoxicating, spirituous, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state.

(53) To establish streets on tidelands: To project or extend or establish streets over and across any tidelands within the limits of such city.

(54) To provide for the general welfare.

Sec. 5. Section 35.24.290, chapter 7, Laws of 1965 as last amended by section 804, chapter 258, Laws of 1984 and RCw 35.24.290 are each amended to read as follows:

The city council of each third class city shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state or of the United States;

(2) To prevent and regulate the running at large of any or all domestic animals within the city limits or any part thereof and to cause the impounding and sale of any such animals;

(3) To establish, build and repair bridges, to establish, lay out, alter, keep open, open, widen, vacate, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish and reestablish the grades thereof; to grade, plank, pave, macadamize, gravel and curb the same, in whole or in part; to construct gutters, culverts, sidewalks and crosswalks therein or upon any part thereof; to cultivate and maintain parking strips therein, and generally to manage and control all such highways and places; to provide by local assessment for the leveling up and surfacing and oiling or otherwise treating for the laying of dust, all streets within the city limits;

(4) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets and alleys or within two hundred feet thereof along which sewers shall have been constructed to make proper connections therewith and to use the same for proper purposes, and in case the owners of the property on such streets and alleys or within two hundred feet thereof fail to make such connections within the time fixed by such council, it may cause such connections to be made and assess against the property served thereby the costs and expenses thereof;

(5) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(6) To impose and collect an annual license on every dog within the limits of the city, to prohibit dogs running at large and to provide for the killing of all dogs not duly licensed found at large;

(7) To license, for the purposes of regulation and revenue, all and every kind of business authorized by law, and transacted and carried on in such city, and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof, to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise;

(8) To improve rivers and streams flowing through such city, or adjoining the same; to widen, straighten and deepen the channel thereof, and remove obstructions therefrom; to improve the water-front of the city, and to construct and maintain embankments and other works to protect such city from overflow; to prevent the filling of the water of any bay, except such filling over tide or shorelands as may be provided for by order of the city council; to purify and prevent the pollution of streams of water, lakes or other sources of supply, and for this purpose shall have jurisdiction over all streams, lakes or other sources of supply, both within and without the city limits. Such city shall have power to provide by ordinance and to enforce such punishment or penalty as the city council may deem proper for the offense of polluting or in any manner obstructing or interfering with the water supply of such city or source thereof;

(9) To erect and maintain buildings for municipal purposes;

(10) To permit, under such restrictions as it may deem proper, and to grant franchises for, the laying of railroad tracks, and the running of cars propelled by electric, steam or other power thereon, and the laying of gas and water pipes and steam mains and conduits for underground wires, and to permit the construction of tunnels or subways in the public streets, and to construct and maintain and to permit the construction and maintenance of telegraph, telephone and electric lines therein;

(11) In its discretion to divide the city by ordinance, into a convenient number of wards, not exceeding six, to fix the boundaries thereof, and to change the same from time to time: PROVIDED, That no change in the boundaries of any ward shall be made within sixty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by general vote of the whole city as may be designated in such ordinance. When additional territory is added to the city it may by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilman from the ward for which he was elected shall create a vacancy in such office;

(12) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed five thousand dollars nor the term of such imprisonment exceed the term of one year; or to provide that violations of ordinances constitute a civil violation subject to monetary penalty;

(13) To establish fire limits, with proper regulations;

(14) To establish and maintain a free public library;

(15) To establish and regulate public markets and market places;

(16) To punish the keepers and inmates and lessors of houses of ill fame, gamblers and keepers of gambling tables, patrons thereof or those found loitering about such houses and places;

(17) To make all such ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the corporation and its trade, commerce and manufactures, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter, and to enact and enforce within the limits of such city all other local, police, sanitary and other regulations as do not conflict with general laws;

(18) To license steamers, boats and vessels used in any bay or other watercourse in the city and to fix and collect such license; to provide for the regulation of berths, landings, and stations, and for the removing of steamboats, sail boats, sail vessels, rafts, barges and other watercraft; to provide for the removal of obstructions to navigation and of structures dangerous to navigation or to other property, in or adjoining the waterfront, except in municipalities in counties in which there is a city of the first class.

Sec. 6. Section 35.27.370, chapter 7, Laws of 1965 as last amended by section 805, chapter 258, Laws of 1984 and RCW 35.27.370 are each amended to read as follows:

The council of said town shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state, or of the United States;

(2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the town; to acquire, own, and hold real estate for cemetery purposes either within or without the corporate limits, to sell and dispose of such real estate, to plat or replat such real estate into cemetery lots and to sell and dispose of any and all lots therein, and to operate, improve and maintain the same as a cemetery;

(3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for use of such town or its inhabitants, or for irrigating purposes therein;

(4) To establish, build and repair bridges, to establish, lay out, alter, widen, extend, keep open, improve, and repair streets, sidewalks, alleys, squares and other public highways and places within the town, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, plank, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or on any part thereof; to cause to be planted, set out and cultivated trees therein, and generally to manage and control all such highways and places;

(5) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets along which sewers are constructed to make proper connections therewith, and to use the same for proper purposes when such property is improved by the erection thereon of a building or buildings; and in case the owners of such improved property on such streets shall fail to make such connections within the time fixed by such council, they may cause such connections to be made, and to assess against the property in front of which such connections are made the costs and expenses thereof;

(6) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(7) To impose and collect an annual license on every dog within the limits of the town, to prohibit dogs running at large, and to provide for the killing of all dogs found at large and not duly licensed;

(8) To levy and collect annually a property tax, for the payment of current expenses and for the payment of indebtedness (if any indebtedness exists) within the limits authorized by law;

(9) To license, for purposes of regulation and revenue, all and every kind of business, authorized by law and transacted and carried on in such town; and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; to regulate, restrain, or prohibit the running at large of any and all domestic animals within the city limits, or any part or parts thereof, and to regulate the keeping of such animals within any part of the city; to establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed on, and collected from, the owners of any impounded stock;

(10) To improve the rivers and streams flowing through such town or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to prevent the pollution of streams or water running through such town, and for this purpose shall have jurisdiction for two miles in either direction; to improve the waterfront of the town, and to construct and maintain embankments and other works to protect such town from overflow;

(11) To erect and maintain buildings for municipal purposes;

(12) To grant franchises or permits to use and occupy the surface, the overhead and the underground of streets, alleys and other public ways, under such terms and conditions as it shall deem fit, for any and all purposes, including but not being limited to the construction, maintenance and operation of railroads, street railways, transportation systems, water, gas and steam systems, telephone and telegraph systems, electric lines, signal systems, surface, aerial and underground tramways;

(13) To punish the keepers and inmates and lessors of houses of ill fame, and keepers and lessors of gambling houses and rooms and other places where gambling is carried on or permitted, gamblers and keepers of gambling tables;

(14) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five thousand dollars, nor the term of imprisonment exceed one year; or to provide that violations of ordinances constitute a civil violation subject to a monetary penalty;

(15) To operate ambulance service which may serve the town and surrounding rural areas and, in the discretion of the council, to make a charge for such service;

(16) To make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the town and its trade, commerce and manufacturers, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

Sec. 7. Section 35A.11.020, chapter 119, Laws of 1967 ex. sess. as last amended by section 807, chapter 258, Laws of 1984 and RCW 35A.11.020 are each amended to read as follows:

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people: PROVIDED, That nothing in this section or in this title shall permit any city, whether a code city or otherwise, to enact any provisions establishing or respecting a merit system or system of civil service for firemen and policemen which does not substantially accomplish the same purpose as provided by general law in chapter 41.08 RCW for firemen and chapter 41.12 RCW for policemen now or as

hereafter amended, or enact any provision establishing or respecting a pension or retirement system for firemen or policemen which provides different pensions or retirement benefits than are provided by general law for such classes. Such body may adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the city, and may impose penalties of fine not exceeding five thousand dollars or imprisonment for any term not exceeding one year, or both, for the violation of such ordinances, constituting a misdemeanor or gross misdemeanor as provided therein. Such a body alternatively may provide that violation of such ordinances constitutes a civil violation subject to monetary penalty. The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition, sale, ownership, improvement, maintenance, protection, restoration, regulation, use, leasing, disposition, vacation, abandonment or beautification of public ways, real property of all kinds, waterways, structures, or any other improvement or use of real or personal property, in regard to all aspects of collective bargaining as provided for and subject to the provisions of chapter 41.56 RCW, as now or hereafter amended, and in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns. In addition and not in limitation, the legislative body of each code city shall have any authority ever given to any class of municipality or to all municipalities of this state before or after the enactment of this title, such authority to be exercised in the manner provided, if any, by the granting statute, when not in conflict with this title. Within constitutional limitations, legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state as provided in RCW 66.08.120, ((RCW)) 82.36.440, ((RCW)) 48.14.020, and ((RCW)) 48.14.080.

NEW SECTION. Sec. 8. A new section is added to chapter 85.38 RCW to read as follows:

(1) Territory that is contiguously located to a special district may be annexed by the special district as provided in this section under the petition and election, resolution and election, or direct petition method of annexation.

(2) An annexation under the election method may be initiated by the filing of a petition requesting the action that is signed by at least ten owners of property in the area proposed to be annexed or the adoption of a resolution requesting such action by the governing body of the special district. The petitions shall be filed with the governing body of the special district

that is requested to annex the territory. An election to authorize an annexation initiated under the petition and election method may be held only if the governing body approves the annexation. An annexation under either election method shall be authorized if the voters of the area proposed to be annexed approve a ballot proposition favoring the annexation by a simple majority vote. The annexation shall be effective when results of an election so favoring the annexation are certified by the county auditor or auditors. The election, notice of the election, and eligibility to vote at the election shall be as provided for the creation of a special district.

(3) An annexation under the direct petition method of annexation may be accomplished if the owners of a majority of the acreage proposed to be annexed sign a petition requesting the annexation, and the governing body of the special district approves the annexation. The petition shall be filed with the governing body of the special district. The annexation shall be effective when the governing body approves the annexation.

(4) Whenever a special district annexes territory under this section, the exclusive method by which the special district measures and imposes special assessments upon real property within the entire enlarged area shall be as set forth in RCW 85.38.150 through 85.38.170.

NEW SECTION. Sec. 9. A new section is added to chapter 85.38 RCW to read as follows:

Two or more special districts that are contiguously located with each other, or which occupy all or part of the same territory, may consolidate as provided in this section. The consolidation shall result in the creation of a flood control district.

A consolidation may be initiated by: (1) The filing of a petition requesting the action that is signed by eligible voters of each special district who constitute at least ten percent of the eligible voters of the special district, or who own at least a majority of the acreage in the special district; or (2) the adoption of a resolution requesting such action by the governing body of each special district. The petitions shall be filed with, and the resolutions shall be submitted to, the county legislative authority of the county within which all or the largest portion of the special districts is located. The auditor of the county, or auditors of the counties, within which these districts are located shall authenticate the signatures on the petitions and certify the results. An election to authorize the consolidation shall be held not more than one hundred eighty days after the date of the filing of the resolutions, or the determination that sufficient valid signatures are included on the petition from the voters of each of the special districts.

The consolidation shall be authorized if voters in each of the special districts approve a ballot proposition favoring the consolidation by a simple majority vote. Members of the governing body of the consolidated special district shall be selected as provided in RCW 85.38.070 for a newly created

special district and the consolidation shall be effective when these initial members of the governing body are so appointed.

All moneys, rights, property, assets and liabilities of the consolidating special districts shall vest in and become the obligation of the new consolidated special district, except that any indebtedness of a consolidating special district shall remain an indebtedness of the original consolidating special district and lands within the original consolidating special district. The governing body of the new consolidated special district shall impose special assessments on lands in the original consolidating special district to redeem this indebtedness. However, the new consolidated special district may issue funding or refunding bonds or notes and fund or refund such indebtedness. The new consolidated special district may continue imposing special assessments pursuant to the various systems of assessment used by the original consolidating special districts, or may establish a new system or systems of assessment in all or part of the new consolidated special district to finance its operations.

NEW SECTION. Sec. 10. A new section is added to chapter 85.38 RCW to read as follows:

Any special district may have its operations suspended as provided in this section. The process of suspending a special district's operations may be initiated by: (1) The adoption of a resolution proposing such action by the governing body of the special district; (2) the filing of a petition proposing such action with the county legislative authority of the county in which all or the largest portion of the special district is located, which petition is signed by voters of the special district who own at least ten percent of the acreage in the special district or is signed by ten or more voters of the special district; or (3) the adoption of a resolution proposing such action by the county legislative authority of the county in which all or the largest portion of the special district is located.

A public hearing on the proposed action shall be held by the county legislative authority at which it shall inquire into whether such action is in the public interest. Notice of the public hearing shall be published in a newspaper of general circulation in the special district, posted in at least four locations in the special district to attract the attention of the public, and mailed to the members of the governing body of the special district, if there are any. After the public hearing, the county legislative authority may adopt a resolution suspending the operations of the special district if it finds such suspension to be in the public interest. When a special district is located in more than one county, the legislative authority of each of such counties must so act before the operations of the special district are suspended.

After holding a public hearing on the proposed reactivation of a special district that has had its operations suspended, the legislative authority or authorities of the county or counties in which the special district is located

may reactivate the special district by adopting a resolution finding such action to be in the public interest. Notice of the public hearing shall be posted and published as provided for the public hearing on a proposed suspension of a special district's operations. The governing body of a reactivated special district shall be appointed as in a newly created special district.

No special district that owns drainage or flood control improvements may be dissolved unless the legislative authority of a county accepts responsibility for operation and maintenance of the improvements.

NEW SECTION. Sec. 11. A new section is added to chapter 85.05 RCW to read as follows:

Diking districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 12. A new section is added to chapter 85.06 RCW to read as follows:

Drainage districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 13. A new section is added to chapter 85.08 RCW to read as follows:

Diking or drainage improvement districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 14. A new section is added to chapter 85.24 RCW to read as follows:

Intercounty diking and drainage improvement districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 15. A new section is added to chapter 85.36 RCW to read as follows:

Consolidated diking districts, drainage districts, diking improvement districts, and/or drainage improvement districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 16. A new section is added to chapter 86.09 RCW to read as follows:

Flood control districts may annex territory, consolidate with other special districts, and have their operations suspended and be reactivated, in accordance with chapter 85.38 RCW.

Sec. 17. Section 1, chapter 87, Laws of 1941 as amended by section 10, chapter 30, Laws of 1979 ex. sess. and RCW 53.48.010 are each amended to read as follows:

The following words and terms shall, whenever used in this chapter, have the meaning set forth in this section:

(1) The term "district" as used herein, shall include all municipal and quasi municipal corporations having a governing body, other than cities, towns, counties, and townships, such as port, school, water, fire protection, and all other districts of similar organization, but shall not include local improvement districts, diking, drainage and irrigation districts, special districts as defined in RCW 85.38.010, nor public utility districts.

(2) The words "board of commissioners," as used herein, shall mean the governing authority of any district as defined in subdivision (1) of this section.

NEW SECTION. Sec. 18. A new section is added to chapter 85.38 RCW to read as follows:

A special district may issue special assessment bonds or notes to finance costs related to providing, improving, expanding, or enlarging improvements and facilities if the county legislative authority within which all or the major part of the special district is located authorizes the issuance of such bonds or notes. The decision of a county legislative authority authorizing or failing to authorize a proposed issue of special assessment bonds or notes constitutes a discretionary function, and shall not give rise to a cause of action against the county, county legislative authority, or any member of the county legislative authority.

NEW SECTION. Sec. 19. A new section is added to chapter 85.38 RCW to read as follows:

(1) Special assessment bonds and notes issued by special districts shall be issued and sold in accordance with chapter 39.46 RCW, except as otherwise provided in this chapter. The maximum term of any special assessment bond issued by a special district shall be twenty years. The maximum term of any special assessment note issued by a special district shall be five years.

(2) The governing body of a special district issuing special assessment bonds or notes shall create a special fund or funds, or use an existing special fund or funds, from which, along with any special assessment bond guaranty fund the special district has created, the principal of and interest on the bonds or notes exclusively are payable.

(3) The governing body of a special district may provide such covenants as it may deem necessary to secure the payment of the principal of and interest on special assessment bonds or notes, and premiums on special assessment bonds or notes, if any. Such covenants may include, but are not limited to, depositing certain special assessments into a special fund or funds, and establishing, maintaining, and collecting special assessments which are to be placed into the special fund or funds. The special assessments covenanted to be placed into such a special fund or funds after the effective date of this act may include all or part of the new system of special

assessments imposed for such purposes, pursuant to RCW 85.38.150 and 85.38.160. However, the special assessments covenanted to be placed into the special fund or funds from which the funding or refunding special assessment bonds or notes to be funded or refunded were payable.

(4) A special assessment bond or note issued by a special district shall not constitute an indebtedness of the state, either general or special, nor of the county, either general or special, within which all or any part of the special district is located. A special assessment bond or note shall not constitute a general indebtedness of the special district issuing the bond or note, but is a special obligation of the special district and the interest on and principal of the bond or note shall be payable only from special assessments covenanted to be placed into the special fund or funds, and any special assessment bond guaranty fund the special district has created.

The owner of a special assessment bond or note, or the owner of an interest coupon, shall not have any claim for the payment thereof against the special district arising from the special assessment bond or note, or interest coupon, except for payment from the special fund or funds, the special assessments covenanted to be placed into the special fund or funds, and any special assessment bond guaranty fund the special district has created. The owner of a special assessment bond or note, or the owner of an interest coupon, issued by a special district shall not have any claim against the state, or any county within which all or part of the special district is located, arising from the special assessment bond, note, or interest coupon. The special district issuing the special assessment bond or note shall not be liable to the owner of any special assessment bond or note, or owner of any interest coupon, for any loss occurring in the lawful operation of its special assessment bond guaranty fund.

The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each special assessment bond or note that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the bonds or notes.

NEW SECTION. Sec. 20. A new section is added to chapter 85.38 RCW to read as follows:

The governing body of a special district issuing special assessment bonds or notes may create and pay money into a special assessment bond guaranty fund to guaranty special assessment bonds and notes issued by the special district. A portion of the special assessments collected by a special district may be placed into its special assessment bond guaranty fund.

NEW SECTION. Sec. 21. A new section is added to chapter 85.38 RCW to read as follows:

A special district may issue funding or refunding special assessment bonds or notes to refund outstanding bonds or notes. Such funding or refunding bonds or notes shall be subject to the provisions of law governing other special assessment bonds or notes.

NEW SECTION. Sec. 22. A new section is added to chapter 85.38 RCW to read as follows:

Special assessment bonds or notes issued by a special district prior to July 1, 1986, shall continue to be retired and be subject to the laws under which they were issued.

NEW SECTION. Sec. 23. A new section is added to chapter 85.05 RCW to read as follows:

Special assessment bonds and notes shall be issued and sold in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 24. A new section is added to chapter 85.06 RCW to read as follows:

Special assessment bonds and notes shall be issued and sold in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 25. A new section is added to chapter 85.08 RCW to read as follows:

Special assessment bonds and notes shall be issued and sold in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 26. A new section is added to chapter 85.24 RCW to read as follows:

Special assessment bonds and notes shall be issued and sold in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 27. A new section is added to chapter 85.36 RCW to read as follows:

Special assessment bonds and notes shall be issued and sold in accordance with chapter 85.38 RCW.

NEW SECTION. Sec. 28. A new section is added to chapter 86.09 RCW to read as follows:

Special assessment bonds and notes shall be issued and sold in accordance with chapter 85.38 RCW.

Sec. 29. Section 36, chapter 117, Laws of 1895 and RCW 85.05.360 are each amended to read as follows:

All warrants issued under the provisions of this act shall be presented by the ((holders)) owners thereof to the county treasurer, who shall indorse thereon the day of presentation for payment, with the additional indorsement thereon, in case of nonpayment, that they are not paid for want of funds; and no warrant shall draw interest under the provisions of this act until it is so presented and indorsed by the county treasurer. And it shall be the duty of such treasurer, from time to time, when he has sufficient funds in his hands for that purpose, to advertise in the newspaper doing the county printing for the presentation to him for payment of as many of the outstanding warrants as he may be able to pay: PROVIDED, That thirty days after the first publication of said notice of the treasurer calling in any of

said outstanding warrants, said warrants shall cease to bear interest, which shall be stated in the notice. Said notice shall be published two weeks, consecutively, and said warrants shall be called in and paid in the order of their indorsement.

Sec. 30. Section 33, chapter 115, Laws of 1895 and RCW 85.06.330 are each amended to read as follows:

All warrants issued under the provisions of this chapter shall be presented by the ~~((holders))~~ owners thereof to the county treasurer, who shall indorse thereon the day of presentation for payment, with the additional indorsement thereon, in case of nonpayment, that they are not paid for want of funds; and no warrant shall draw interest under the provisions of this chapter until it is so presented and indorsed by the county treasurer. And it shall be the duty of such treasurer, from time to time, when he has sufficient funds in his hands for that purpose, to advertise in the newspaper doing the county printing for the presentation to him for payment of as many of the outstanding warrants as he may be able to pay: PROVIDED, That thirty days after the first publication of said notice of the treasurer calling in any of said outstanding warrants said warrants shall cease to bear interest, which shall be stated in the notice. Said notice shall be published two weeks consecutively, and said warrants shall be called in and paid in the order of their indorsement.

Sec. 31. Section 15, chapter 176, Laws of 1913 and RCW 85.08.210 are each amended to read as follows:

Upon ~~((the settlement of the claims for damages as provided in RCW 85.08.170, or upon))~~ the entry of judgment as provided in RCW 85.08.200, the county auditor shall, under the direction of the ~~((board of county commissioners))~~ county legislative authority, draw ~~((his))~~ a warrant upon the county treasurer for the payment of the amount of damages agreed to or the amount of the judgment, as the case may be, to be paid out of the current expense fund of the county.

Sec. 32. Section 23, chapter 176, Laws of 1913 as last amended by section 46, chapter 396, Laws of 1985 and RCW 85.08.320 are each amended to read as follows:

The compensation of the superintendent of construction, the board of appraisers hereinafter provided for, and any special engineer, attorney or agent employed by the district in connection with the improvement, the maximum wages to be paid, and the maximum price of materials to be used, shall be fixed by the district board of supervisors. ~~((The compensation for))~~ Members of the board of supervisors ~~((shall be fixed by the county legislative authority))~~ may receive compensation up to twenty-five dollars for attending each official meeting of the district and for each day or major part thereof for all necessary services actually performed in connection with

their duties as supervisors. Each supervisor shall be entitled to reimbursement for reasonable expenses actually incurred in connection with business, including subsistence and lodging while away from the supervisor's place of residence and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW. ~~((Each member of the county legislative authority, except in counties of the first class, shall receive pay at the rate of four dollars per day for the number of days he is engaged in the performance of any duty under this chapter, which sum shall be additional to his salary in case he receive an annual salary; and none of the statutory provisions limiting the number of days that a member of the county legislative authority shall draw pay for or limiting the number of sessions for attendance upon which he shall be entitled to mileage shall apply to any proceedings under this chapter. All officers and members of boards performing duties under this chapter shall receive in addition to their fees or salaries their actual necessary expenses incurred in the performance of their duties hereinunder.))~~ All costs of construction or maintenance done under the direction of the board of supervisors shall be paid upon vouchers or payrolls verified by two of the said supervisors. All costs of construction and all other expenses, fees and charges on account of such improvement shall be paid by warrants drawn by the county auditor upon the county treasurer upon the proper fund, and shall draw interest at a rate determined by the county legislative authority until paid or called by the county treasurer as warrants of the county are called.

~~((If at the hearing provided for in RCW 85.08.160 the county legislative authority shall determine that bonds shall be issued to pay the costs of the improvement or warrants sold to procure funds with which to pay such cost, as therein provided, temporary warrants may be issued for any part or all of such costs, expenses, fees, and charges, and shall be paid in cash upon the issuance and sale of such bonds, or shall be exchanged for an equal amount par value of such bonds. All such temporary warrants shall recite that they are temporary warrants and that they draw interest until called to be paid in cash or to be exchanged for bonds. All warrants issued under the provisions of this chapter and sold by the county legislative authority, or issued to any contractor and by him sold or hypothecated for a valuable consideration, shall be claims and liens against the fund against which they are drawn, prior and superior to any right, lien or claim of any surety upon any bond or bonds given to secure the performance of the contract or to secure the payment of persons who have performed work thereon, furnished materials therefor or provisions and supplies for the carrying on of the work.))~~

Sec. 33. Section 3, chapter 26, Laws of 1949 as amended by section 197, chapter 167, Laws of 1983 and RCW 85.16.030 are each amended to read as follows:

~~((†))~~ In maintaining a system of improvements of any such district the supervisors thereof may at any time, with the approval of the county

legislative authority and upon determination by such county legislative authority that an emergency exists, make expenditures in excess of the last annual maintenance ((levy)) assessments theretofore made, which excess amount or amounts shall in such event be included in the maintenance ((levy)) assessments for the succeeding year except as otherwise herein provided.

~~((When, owing to floods, earthquakes, inadequate maintenance or any other cause, it shall be found by the county legislative authority, after consideration of the supervisors' recommendations, plans and specifications and schedules of estimated costs of maintenance work required, that necessary maintenance work will require extraordinary maintenance expenditures and the county legislative authority shall have authorized such extraordinary maintenance work to be done as herein provided, the county legislative authority may provide that the levy to meet such extraordinary expenditures shall be spread over a term of years and warrants or bonds issued to meet the same. Such terms shall not exceed five years if warrants are issued, and shall be either ten or fifteen years if bonds are issued, all as the county legislative authority shall determine. The form, tenor, and amount of such bonds and warrants, the number of installments in which the assessments shall be paid, and the time and method of payment of assessments shall be the same as provided in RCW 85.08.240, for the original construction cost of a system of improvements. PROVIDED HOWEVER, That said bonds and warrants may be in denominations of one thousand dollars. Such bonds and warrants may be in any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030. In case maintenance bonds or warrants to cover extraordinary maintenance expenditures are issued as herein provided, then a maintenance bond or warrant redemption fund for each separate issue of bonds or warrants shall be created into which all moneys derived from assessments levied to pay each issue shall be paid. Such redemption fund shall be applied first to the payment of the interest due upon such bonds or warrants and second to the payment of the principal thereof. After payment in full of principal and interest of any such issue of bonds or warrants, any balance thereafter remaining in any such redemption fund shall be paid into the district's maintenance fund.~~

~~(2) Notwithstanding subsection (1) of this section, such bonds and warrants may be issued and sold in accordance with chapter 39.46 RCW.)~~

Sec. 34. Section 13, chapter 26, Laws of 1949 as last amended by section 198, chapter 167, Laws of 1983 and RCW 85.16.180 are each amended to read as follows:

((+)) The county legislative authority shall thereupon enter an order authorizing the contemplated extraordinary maintenance work to be done and authorizing the issuance of temporary construction warrants to pay the cost of said work as it progresses, which warrants may bear interest at such

rate or rates of interest as the county legislative authority shall determine. ~~((Bonds or))~~ Warrants to pay the costs of such extraordinary maintenance may be issued and sold at one time or from time to time and in such series and amounts as may be found practicable and as determined by the board.

~~(((2) Notwithstanding subsection (1) of this section, such bonds and warrants may be issued and sold in accordance with chapter 39.46 RCW.))~~

Sec. 35. Section 6, chapter 131, Laws of 1917 and RCW 85.20.070 are each amended to read as follows:

Whenever in any district reorganized under the provisions of this chapter any bonds issued prior to such reorganization shall become payable and the ~~((board of county commissioners shall determine that it will be for the best interests of the owners of a majority of the acreage of lands included in such district to issue refunding bonds and to levy an assessment, payable in ten or fifteen years, instead of levying the annual assessments required by law to be levied to liquidate such outstanding bonds, they may levy such assessment and fix the time for the payment thereof at either ten or fifteen years, and fix the installments in which such assessment shall be paid as provided for the payment of assessments for the costs of construction under the provisions of chapter 176 of the Laws of 1913, and acts amendatory thereof, and they may issue refunding bonds of the district in the manner hereinafter provided, to provide funds with which to pay such outstanding bonds then payable))~~ county legislative authority determines that it is in the interest of the property owners of the district to have refunding bonds issued, the county legislative authority may authorize the district to issue refunding bonds in accordance with chapter 85.38 RCW.

Sec. 36. Section 11, chapter 131, Laws of 1917 and RCW 85.20.120 are each amended to read as follows:

Upon the expiration of thirty days from the first publication of the notice given by the treasurer as provided herein, the ~~((board of county commissioners))~~ county legislative authority of the county in which all or the major part of the district is located may issue and sell refunding bonds of the district ~~((, payable as determined by them in their resolution, in the manner provided for the issuance of bonds to pay the costs of construction in drainage improvement districts, and all the provisions of law governing the issuance, sale and payment of such bonds shall govern the issuance, sale and payment of the bonds herein provided for))~~ subject to chapter 85.38 RCW.

Sec. 37. Section 6, chapter 182, Laws of 1933 and RCW 85.22.060 are each amended to read as follows:

Whenever in any district reorganized under the provisions of this chapter any bonds issued prior to such reorganization shall become payable and the ~~((board of county commissioners shall determine that it will be for~~

~~the best interests of the owners of a majority of the acreage of lands included in such district to issue refunding bonds and to levy an assessment, payable in ten or fifteen years, instead of levying the annual assessments required by law to be levied to liquidate such outstanding bonds, they may levy such assessment and fix the time for the payment thereof at either ten or fifteen years, and fix the installments in which such assessment shall be paid as provided for the payment of assessments for the costs of construction under the provisions of chapter 176 of the Laws of 1913, and acts amendatory thereof; and they may issue refunding bonds of the district in the manner hereinafter provided, to provide funds with which to pay such outstanding bonds then payable)) county legislative authority determines that it is in the interest of the property owners of the district to have refunding bonds issued, the county legislative authority may authorize the district to issue refunding bonds in accordance with chapter 85.38 RCW.~~

Sec. 38. Section 17, chapter 225, Laws of 1909 as amended by section 199, chapter 167, Laws of 1983 and RCW 85.24.160 are each amended to read as follows:

The owner of any lot or parcel of land charged with any assessment, as hereinbefore provided, may redeem the same from all liability by paying the entire assessment charged against such lot or parcel of land, or part thereof, without interest, within thirty days after notice to him of such assessment, as herein provided(~~(, or may redeem same any time after the bonds authorized in RCW 85.24.230 shall have been issued by paying the full amount of all the principal and interest to the end of the interest year then expiring or next to expire. The board shall pay the interest on the bonds authorized to be issued under this chapter out of the respective local improvement funds, from which they are payable, and whenever there shall be sufficient money in any of such funds against which bonds have been issued under provisions of this chapter, over and above the amount necessary for the payment of interest on all unpaid bonds, and sufficient to pay the principal of one or more bonds, the board shall call in and pay such bond: PROVIDED, Said bonds shall be called in and paid in their numerical order: PROVIDED FURTHER, That such call shall be made by publication in one or more newspapers on the day following the delinquencies of the installment of the assessment, or as soon thereafter as practicable and shall state that bonds Nos. (giving serial number and numbers of the bonds called) will be paid on the day the interest payments on such bonds shall become due, and interest upon such bonds shall cease upon such date)).~~

Sec. 39. Section 15, chapter 131, Laws of 1961 and RCW 85.32.140 are each amended to read as follows:

Any district choosing to operate under this chapter shall not use the processes provided for raising revenue under any other law: PROVIDED, That if for any reason it is deemed more just and advisable by the board, any such other method or process for raising revenue as provided by law

may be used concurrently against properties solely within the territorial limits of the district for the sole purpose of extinguishing indebtedness incurred before the district adopts the procedure of this chapter, in which event no funds raised under this chapter shall be used to pay such prior indebtedness. However, when a drainage district issues special assessment bonds or notes after June 1, 1986, the process of raising revenue related to the bonds or notes shall be as specified in chapter 85.38 RCW.

Sec. 40. Section 53, chapter 72, Laws of 1937 and RCW 86.09.157 are each amended to read as follows:

Said flood control districts shall also have authority to issue and sell special assessment bonds or notes of the district (~~((payable partially or exclusively from the income derived from said tolls above mentioned, as in this chapter provided))~~) in accordance with chapter 85.38 RCW.

Sec. 41. Section 2, chapter 396, Laws of 1985 and RCW 85.38.010 are each amended to read as follows:

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

(1) "Governing body" means the board of commissioners, board of supervisors, or board of directors of a special district.

(2) "Owner of land" means the record owner of at least a majority ownership interest in a separate and legally created lot or parcel of land, as determined by the records of the county auditor, except that if the lot or parcel has been sold under a real estate contract, the vendee or grantee shall be deemed to be the owner of such land for purposes of authorizing voting rights. It is assumed, unless shown otherwise, that the name appearing as the owner of property on the property tax rolls is the current owner.

(3) "Qualified voter of a special district" means a person who is either: (a) A natural person who is a voter under general state election laws, registered to vote in the state of Washington for a period of not less than sixty days before the election, and the owner of land located in the special district for a period of not less than sixty days before the election; ~~((or))~~ (b) a corporation or partnership that has owned land located in the special district for a period of not less than sixty days before the election; or (c) the state, its agencies or political subdivisions that own land in the special district or lands proposed to be annexed into the special district except that the state, its agencies and political subdivisions shall not be eligible to vote to elect a member of the governing board of a special district. If land is owned as community property, both spouses may vote if otherwise qualified. If other multiple undivided interests exist in a lot or parcel, and no person owns a majority undivided interest, the owners of undivided interests at least equal to a majority interest may designate in writing which owner is eligible to vote. A corporation ~~((or))~~, partnership or governmental entity shall designate a natural person to exercise its voting powers. Except as provided in

RCW 85.05.015 and 86.09.377, no owner of land may cast more than one vote, or have more than one vote cast for it, in a special district election.

(4) "Special district" means: (a) A diking district; (b) a drainage district; (c) a diking, drainage, and/or sewerage improvement district; (d) an intercounty diking and drainage district; (e) a consolidated diking district, drainage district, diking improvement district, and/or drainage improvement district; or (f) a flood control district.

(5) "Special district general election" means the election of a special district regularly held on the second Tuesday of December in each odd-numbered year at which a member of the special district governing body is regularly elected.

Sec. 42. Section 8, chapter 396, Laws of 1985 and RCW 85.38.070 are each amended to read as follows:

(1) Except as provided in RCW 85.38.090, each special district shall be governed by a three-member governing ((board)) body. The term of office for each member of a special district governing body shall be six years and until his or her successor is elected and qualified. One member of the governing body shall be elected at the time of special district general elections ind, each odd-numbered year for a term of six years beginning as provided in RCW 29.04.170 for assumption of office by elected officials of cities.

(2) The terms of office of members of the governing bodies of special districts, who are holding office on July 28, 1985, shall be altered to provide staggered six-year terms as provided in this subsection. The member who on July 28, 1985, has the longest term remaining shall have his or her term altered so that the position will be filled at the December, 1991, special district general election; the member with the second longest term remaining shall have his or her term altered so that the position will be filled at the December, 1989, special district general election; and the member with the third longest term of office shall have his or her term altered so that the position will be filled at the December, 1987, special district general election.

(3) The initial members of the governing body of a newly created special district shall be appointed by the legislative authority of the county within which the special district, or the largest portion of the special district, is located. These initial governing body members shall serve until their successors are elected and qualified at the next special district general election held at least ninety days after the special district is established. At that election the first elected members of the governing body shall be elected. No primary elections may be held. Any voter of a special district may become a candidate for such a position by filing written notice of this intention with the governing body of the special district at least thirty, but not more than sixty, days before a special district general election. The names of all candidates for such positions shall be listed alphabetically. At this first election,

the candidate receiving the greatest number of votes shall have a six-year term, the candidate receiving the second greatest number of votes shall have a four-year term, and the candidate receiving the third greatest number of votes shall have a two-year term of office. The initially elected members of a governing body shall take office immediately when qualified as defined in RCW 29.01.135. Thereafter the candidate receiving the greatest number of votes shall be elected for a six-year term of office. Members of a governing body shall hold their office until their successors are elected and qualified, and assume office as provided in RCW 29.04.170.

(4) Whenever a vacancy occurs in the governing body of a special district, the legislative authority of the county within which the special district, or the largest portion of the special district, is located, shall appoint a district voter to serve the remaining term of office. A vacancy occurs upon the death, resignation, or incapacity of a governing body member or whenever the governing body member ceases being a qualified voter of the special district.

(5) An elected or appointed member of a special district governing body must be a qualified voter of the special district: PROVIDED, That the state, its agencies and political subdivisions, or their designees under RCW 85.38.010(3) shall not be eligible for election or appointment.

Sec. 43. Section 144, chapter 72, Laws of 1937 and RCW 86.09.430 are each amended to read as follows:

Said notice of hearing on said determination of assessment ratios shall state that the base assessment map designating the classes in which the lands in the district have been placed for assessment purposes on the ratios authorized by law, has been prepared by the board of appraisers and is on file at the office of the district board and may be inspected at any time during office hours; that a hearing on said map will be held before the ((~~state supervisor of flood control~~)) county legislative authority at the office of the district board on, the day of,, at the hour of o'clock (naming the time), where any person may appear and present such objections, if any, he may have to said map, and shall be signed by the secretary of the district.

Sec. 44. Section 147, chapter 72, Laws of 1937 and RCW 86.09.439 are each amended to read as follows:

Upon the signing of said order by said ((~~state supervisor~~)) county legislative authority and the attachment of the same to said base assessment map, said base assessment map and all things set out on the face thereof shall be conclusive in all things upon all parties, unless appealed from to the superior court in the manner and within the time herein provided.

Sec. 45. Section 188, chapter 72, Laws of 1937 as amended by section 202, chapter 167, Laws of 1983 and RCW 86.09.562 are each amended to read as follows:

Said county treasurer shall pay out the moneys received or deposited with him or any portion thereof upon warrants issued by the county auditor of the same county of which the district treasurer is an officer against the proper funds of the district except the sums to be paid out of the ~~((bond))~~ special funds for interest and principal payments on bonds or notes.

***NEW SECTION.** Sec. 46. The following acts or parts of acts are each repealed:

(1) Section 29, chapter 117, Laws of 1895, section 1, chapter 87, Laws of 1921, section 177, chapter 167, Laws of 1983 and RCW 85.05.290;

(2) Section 30, chapter 117, Laws of 1895, section 43, chapter 232, Laws of 1969 ex. sess., section 87, chapter 56, Laws of 1970 ex. sess., section 178, chapter 167, Laws of 1983 and RCW 85.05.300;

(3) Section 31, chapter 117, Laws of 1895 and RCW 85.05.310;

(4) Section 32, chapter 117, Laws of 1895 and RCW 85.05.320;

(5) Section 33, chapter 117, Laws of 1895 and RCW 85.05.330;

(6) Section 34, chapter 117, Laws of 1895, section 179, chapter 167, Laws of 1983 and RCW 85.05.340;

(7) Section 1, chapter 156, Laws of 1913, section 50, chapter 232, Laws of 1969 ex. sess., section 88, chapter 56, Laws of 1970 ex. sess., section 180, chapter 167, Laws of 1983 and RCW 85.05.480;

(8) Section 1, chapter 69, Laws of 1925 ex. sess., section 181, chapter 167, Laws of 1983 and RCW 85.05.510;

(9) Section 2, chapter 69, Laws of 1925 ex. sess., section 21, chapter 156, Laws of 1981, section 182, chapter 167, Laws of 1983 and RCW 85.05.520;

(10) Section 3, chapter 69, Laws of 1925 ex. sess., section 183, chapter 167, Laws of 1983 and RCW 85.05.530;

(11) Section 17, chapter 115, Laws of 1895 and RCW 85.06.170;

(12) Section 26, chapter 115, Laws of 1895, section 184, chapter 167, Laws of 1983 and RCW 85.06.260;

(13) Section 27, chapter 115, Laws of 1895, section 51, chapter 232, Laws of 1969 ex. sess., section 89, chapter 56, Laws of 1970 ex. sess., section 185, chapter 167, Laws of 1983 and RCW 85.06.270;

(14) Section 28, chapter 115, Laws of 1895 and RCW 85.06.280;

(15) Section 29, chapter 115, Laws of 1895 and RCW 85.06.290;

(16) Section 30, chapter 115, Laws of 1895 and RCW 85.06.300;

(17) Section 31, chapter 115, Laws of 1895, section 186, chapter 167, Laws of 1983 and RCW 85.06.310;

(18) Section 1, part, chapter 174, Laws of 1927, section 52, chapter 232, Laws of 1969 ex. sess., section 90, chapter 56, Laws of 1970 ex. sess., section 187, chapter 167, Laws of 1983 and RCW 85.06.321;

(19) Section 1, part, chapter 174, Laws of 1927 and RCW 85.06.322;

(20) Section 1, part, chapter 174, Laws of 1927 and RCW 85.06.323;

- (21) Section 1, part, chapter 174, Laws of 1927, section 22, chapter 156, Laws of 1981 and RCW 85.06.324;
- (22) Section 1, part, chapter 174, Laws of 1927 and RCW 85.06.325;
- (23) Section 1, part, chapter 174, Laws of 1927 and RCW 85.06.326;
- (24) Section 1, part, chapter 174, Laws of 1927, section 188, chapter 167, Laws of 1983 and RCW 85.06.327;
- (25) Section 1, part, chapter 174, Laws of 1927 and RCW 85.06.328;
- (26) Section 1, part, chapter 174, Laws of 1927 and RCW 85.06.329;
- (27) Section 17, chapter 176, Laws of 1913, section 23, chapter 130, Laws of 1917, section 7, chapter 46, Laws of 1923, section 1, chapter 302, Laws of 1927, section 1, chapter 125, Laws of 1933, section 193, chapter 167, Laws of 1983 and RCW 85.08.240;
- (28) Section 18, chapter 176, Laws of 1913, section 24, chapter 130, Laws of 1917, section 194, chapter 167, Laws of 1983 and RCW 85.08.280;
- (29) Section 1, chapter 211, Laws of 1929, section 1, chapter 22, Laws of 1933, section 1, chapter 38, Laws of 1933 ex. sess., section 196, chapter 167, Laws of 1983 and RCW 85.09.010;
- (30) Section 2, chapter 211, Laws of 1929, section 2, chapter 22, Laws of 1933 and RCW 85.09.020;
- (31) Section 3, chapter 211, Laws of 1929 and RCW 85.09.030;
- (32) Section 4, chapter 211, Laws of 1929 and RCW 85.09.040;
- (33) Section 5, chapter 211, Laws of 1929, section 3, chapter 22, Laws of 1933 and RCW 85.09.050;
- (34) Section 6, chapter 211, Laws of 1929, section 4, chapter 22, Laws of 1933 and RCW 85.09.060;
- (35) Section 7, chapter 211, Laws of 1929, section 5, chapter 22, Laws of 1933 and RCW 85.09.070;
- (36) Section 8, chapter 211, Laws of 1929, section 6, chapter 22, Laws of 1933 and RCW 85.09.080;
- (37) Section 9, chapter 211, Laws of 1929, section 7, chapter 22, Laws of 1933 and RCW 85.09.090;
- (38) Section 8, chapter 22, Laws of 1933 and RCW 85.09.900;
- (39) Section 7, chapter 131, Laws of 1917 and RCW 85.20.080;
- (40) Section 8, chapter 131, Laws of 1917, section 78, chapter 469, Laws of 1985 and RCW 85.20.090;
- (41) Section 9, chapter 131, Laws of 1917 and RCW 85.20.100;
- (42) Section 10, chapter 131, Laws of 1917 and RCW 85.20.110;
- (43) Section 11, chapter 131, Laws of 1917 and RCW 85.20.120;**
- (44) Section 12, chapter 131, Laws of 1917 and RCW 85.20.130;
- (45) Section 7, chapter 182, Laws of 1933, section 52, chapter 396, Laws of 1985 and RCW 85.22.070;
- (46) Section 8, chapter 182, Laws of 1933, section 80, chapter 469, Laws of 1985 and RCW 85.22.080;
- (47) Section 9, chapter 182, Laws of 1933 and RCW 85.22.090;

- (48) Section 10, chapter 182, Laws of 1933 and RCW 85.22.100;
- (49) Section 11, chapter 182, Laws of 1933 and RCW 85.22.110;
- (50) Section 12, chapter 182, Laws of 1933 and RCW 85.22.120;
- (51) Section 16, chapter 225, Laws of 1909, section 5, chapter 140, Laws of 1923, section 27, chapter 156, Laws of 1981, section 200, chapter 167, Laws of 1983 and RCW 85.24.230;
- (52) Section 190, chapter 72, Laws of 1937, section 76, chapter 396, Laws of 1985 and RCW 86.09.568;
- (53) Section 191, chapter 72, Laws of 1937, section 203, chapter 167, Laws of 1983 and RCW 86.09.571;
- (54) Section 192, chapter 72, Laws of 1937 and RCW 86.09.574;
- (55) Section 193, chapter 72, Laws of 1937, section 77, chapter 396, Laws of 1985 and RCW 86.09.577;
- (56) Section 194, chapter 72, Laws of 1937, section 44, chapter 232, Laws of 1969 ex. sess., section 93, chapter 56, Laws of 1970 ex. sess., section 204, chapter 167, Laws of 1983 and RCW 86.09.580;
- (57) Section 195, chapter 72, Laws of 1937, section 205, chapter 167, Laws of 1983 and RCW 86.09.583;
- (58) Section 196, chapter 72, Laws of 1937, section 206, chapter 167, Laws of 1983 and RCW 86.09.586;
- (59) Section 197, chapter 72, Laws of 1937 and RCW 86.09.589;
- (60) Section 202, chapter 72, Laws of 1937, section 208, chapter 167, Laws of 1983, section 80, chapter 396, Laws of 1985 and RCW 86.09.604;
- (61) Section 203, chapter 72, Laws of 1937, section 209, chapter 167, Laws of 1983, section 81, chapter 396, Laws of 1985 and RCW 86.09.607;
- (62) Section 204, chapter 72, Laws of 1937, section 82, chapter 396, Laws of 1985 and RCW 86.09.610; and
- (63) Section 205, chapter 72, Laws of 1937, section 210, chapter 167, Laws of 1983 and RCW 86.09.613.

*Sec. 46 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 47. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 43, Laws of 1913, section 69, chapter 469, Laws of 1985 and RCW 85.05.560;
- (2) Section 2, chapter 43, Laws of 1913 and RCW 85.05.570;
- (3) Section 3, chapter 43, Laws of 1913, section 40, chapter 396, Laws of 1985 and RCW 85.05.580;
- (4) Section 4, chapter 43, Laws of 1913 and RCW 85.05.590;
- (5) Section 5, chapter 43, Laws of 1913 and RCW 85.05.600;
- (6) Section 1, chapter 42, Laws of 1913 and RCW 85.06.510;
- (7) Section 2, chapter 42, Laws of 1913 and RCW 85.06.520;
- (8) Section 3, chapter 42, Laws of 1913 and RCW 85.06.530;
- (9) Section 4, chapter 42, Laws of 1913 and RCW 85.06.540;

- (10) Section 1, chapter 165, Laws of 1907, section 1, chapter 14, Laws of 1915, section 73, chapter 469, Laws of 1985 and RCW 85.07.020;
- (11) Section 2, chapter 165, Laws of 1907 and RCW 85.07.030;
- (12) Section 1, chapter 130, Laws of 1917, section 14, chapter 46, Laws of 1923 and RCW 85.08.580;
- (13) Section 2, chapter 130, Laws of 1917 and RCW 85.08.590;
- (14) Section 3, chapter 130, Laws of 1917, section 15, chapter 46, Laws of 1923 and RCW 85.08.600;
- (15) Section 4, chapter 130, Laws of 1917, section 47, chapter 396, Laws of 1985 and RCW 85.08.610;
- (16) Section 5, chapter 130, Laws of 1917 and RCW 85.08.620;
- (17) Section 6, chapter 130, Laws of 1917 and RCW 85.08.625;
- (18) Section 2, chapter 154, Laws of 1967, section 55, chapter 396, Laws of 1985 and RCW 85.36.010;
- (19) Section 3, chapter 154, Laws of 1967 and RCW 85.36.020; and
- (20) Section 4, chapter 154, Laws of 1967, section 128, chapter 195, Laws of 1973 1st ex. sess. and RCW 85.36.030.

Sec. 48. Section 35.44.090, chapter 7, Laws of 1965 as amended by section 30, chapter 469, Laws of 1985 and RCW 35.44.090 are each amended to read as follows:

At least fifteen days before the date fixed for hearing, notice thereof shall be mailed to the owner or reputed owner of the property whose name appears on the assessment roll, at the address shown on the tax rolls of the county treasurer for each item of property described on the list. In addition thereto the notice shall be published at least ~~((five times))~~ once a week for two consecutive weeks in the official newspaper of the city or town, the last publication to be at least fifteen days before the date fixed for hearing.

NEW SECTION. Sec. 49. A new section is added to chapter 52.12 RCW to read as follows:

Fire protection districts may cooperate and participate with counties, cities, or towns in providing hazardous materials response teams under the county, city, or town emergency management plan provided for in RCW 38.52.070. The participation and cooperation shall be pursuant to an agreement or contract entered into under chapter 39.34 RCW.

NEW SECTION. Sec. 50. A new section is added to chapter 85.38 RCW to read as follows:

Special districts shall have authority to enter into contracts for the construction of any improvement authorized by law, or for labor, materials, or equipment entering therein, without public bidding, with the written approval and consent of the governing body in instances of genuine emergency to be declared by the governing body or in any instance where the contract price does not exceed ten thousand dollars.

Any proposed improvement or part thereof, not exceeding five thousand dollars in cost, may be constructed by district employees: PROVIDED, That this shall not restrict a special district from using volunteer labor and equipment on improvements, and providing reimbursement for actual expenses.

NEW SECTION. Sec. 51. The following acts or parts of acts are each repealed:

(1) Section 62, chapter 72, Laws of 1937, section 10, chapter 104, Laws of 1982, section 56, chapter 396, Laws of 1985 and RCW 86.09.184; and

(2) Section 63, chapter 72, Laws of 1937, section 4, chapter 25, Laws of 1965, section 4, chapter 104, Laws of 1982, section 57, chapter 396, Laws of 1985 and RCW 86.09.187.

Sec. 52. Section 51, chapter 72, Laws of 1937 and RCW 86.09.151 are each amended to read as follows:

(1) Said flood control districts shall have full authority to carry out the objects of their creation and to that end are authorized to acquire, purchase, hold, lease, manage, improve, repair, occupy, and sell real and personal property or any interest therein, either inside or outside the boundaries of the district, to enter into and perform any and all necessary contracts, to appoint and employ the necessary officers, agents and employees, to sue and be sued, to exercise the right of eminent domain, to levy and enforce the collection of special assessments and in the manner herein provided against the lands within the district, for district revenues, and to do any and all lawful acts required and expedient to carry out the purpose of this chapter.

(2) In addition to the powers conferred in this chapter and those in chapter 85.38 RCW, flood control districts may engage in activities authorized under RCW 36.61.020 for lake management districts using procedures granted in this chapter and in chapter 85.38 RCW.

NEW SECTION. Sec. 53. A new section is added to chapter 90.03 RCW to read as follows:

The definitions set forth in this section apply to sections 54 and 55 of this act.

(1) "State highway right of way" means the right of way for a state highway. The phrase includes the right of way of a state limited-access highway inside or outside a city or town but does not include city or town streets forming a part of the route of state highways that are not limited-access highways. The term does not include state property under the jurisdiction of the department of transportation that is outside the right of way lines of a state highway.

(2) "Storm water control facility" means any facility, improvement, development, property, or interest therein, made, constructed, or acquired

for the purpose of controlling, or protecting life or property from, any storm, waste, flood, or surplus waters.

(3) "Rate" means the dollar amount charged per unit of surface area of a parcel of real property based upon factors established by the local government utility.

(4) "Comparable real property" means real property equal to the state highway right of way or a section of state highway right of way in terms of the factors considered by the local government utility in establishing rates.

NEW SECTION. Sec. 54. A new section is added to chapter 90.03 RCW to read as follows:

The rate charged by a local government utility to the department of transportation with respect to state highway right of way or any section of state highway right of way for the construction, operation, and maintenance of storm water control facilities under chapters 35.67, 35.92, 36.89, 36.94, 56.08, and 86.15 RCW, shall be thirty percent of the rate for comparable real property, except as otherwise provided in this section. The rate charged to the department with respect to state highway right of way or any section of state highway right of way within a local government utility's jurisdiction shall not, however, exceed the rate charged for comparable city street or county road right of way within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of storm water control facilities designed to control surface water or storm water runoff from state highway rights of way. The utility imposing the charge and the department of transportation may, however, agree to either higher or lower rates with respect to the construction, operation, or maintenance of any specific storm water control facilities based upon the extent and adequacy of storm water control facilities constructed by the department and upon the actual benefits to state highway rights of way from the storm water control facilities constructed by the local government utility. If a different rate is agreed to, a report so stating shall be submitted to the legislative transportation committee. If the local government utility and the department of transportation cannot agree upon the proper rate, and after a report has been submitted to the legislative transportation committee and after ninety days from submission of such report, either may commence an action in the superior court for the county in which the state highway right of way is located to establish the proper rate. The court in establishing the proper rate shall take into account the extent and adequacy of storm water control facilities constructed by the department and the actual benefits to the sections of state highway rights of way from storm water control facilities constructed, operated, and maintained by the local government utility. Control of surface water runoff and storm water runoff from state highway rights of way shall be deemed an actual benefit to the state highway rights of way. The rate for sections of

state highway right of way as determined by the court shall be set forth in terms of the percentage of the rate for comparable real property, but shall in no event exceed the rate charged for comparable city street or county road right of way within the same jurisdiction.

Sec. 55. Section 1, chapter 315, Laws of 1983 and RCW 35.67.025 are each amended to read as follows:

Except as otherwise provided in section 54 of this 1986 act, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by cities and towns pursuant to RCW 35.67.020. In setting these rates and charges, consideration may be made of inkind services, such as stream improvements or donation of property.

Sec. 56. Section 2, chapter 315, Laws of 1983 and RCW 35.92.021 are each amended to read as follows:

Except as otherwise provided in section 54 of this 1986 act, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by cities and towns pursuant to RCW 35.92.020. In setting these rates and charges, consideration may be made of inkind services, such as stream improvements or donation of property.

Sec. 57. Section 3, chapter 315, Laws of 1983 and RCW 36.89.085 are each amended to read as follows:

Except as otherwise provided in section 54 of this 1986 act, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by counties pursuant to RCW 36.89.080. In setting these rates and charges, consideration may be made of inkind services, such as stream improvements or donation of property.

Sec. 58. Section 4, chapter 315, Laws of 1983 and RCW 36.94.145 are each amended to read as follows:

Except as otherwise provided in section 54 of this 1986 act, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by counties pursuant to RCW 36.94.140. In setting these rates and charges, consideration may be made of inkind services, such as stream improvements or donation of property.

Sec. 59. Section 5, chapter 315, Laws of 1983 and RCW 56.08.012 are each amended to read as follows:

Except as otherwise provided in section 54 of this 1986 act, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by sewer districts pursuant to RCW 56.08.010 or 56.16.090. In setting these rates and charges, consideration may be made of inkind services, such as stream improvements or donation of property.

Sec. 60. Section 16, chapter 153, Laws of 1961 as last amended by section 19, chapter 315, Laws of 1983 and RCW 86.15.160 are each amended to read as follows:

For the purposes of this chapter the supervisors may authorize:

(1) An annual excess ad valorem tax levy within any zone or participating zones when authorized by the voters of the zone or participating zones under RCW 84.52.052 and 84.52.054;

(2) An assessment upon property, including state property, specially benefited by flood control improvements or storm water control improvements imposed under chapter 86.09 RCW;

(3) Within any zone or participating zones an annual ad valorem property tax levy of not to exceed fifty cents per thousand dollars of assessed value when the levy will not take dollar rates that other taxing districts may lawfully claim and that will not cause the combined levies to exceed the constitutional and/or statutory limitations, and the additional levy, or any portion thereof, may also be made when dollar rates of other taxing units is released therefor by agreement with the other taxing units from their authorized levies;

(4) A charge, under RCW 36.89.080, for the furnishing of service to those who are receiving or will receive benefits from storm water control facilities and who are contributing to an increase in surface water runoff. Except as otherwise provided in section 54 of this 1986 act, any public entity and public property, including the state and state property, shall be liable for the charges to the same extent a private person and privately owned property is liable for the charges, and in setting these rates and charges, consideration may be made of inkind services, such as stream improvements or donation of property;

(5) The creation of local improvement districts and utility local improvement districts, the issuance of improvement district bonds and warrants, and the imposition, collection, and enforcement of special assessments on all property, including any state-owned or other publicly-owned property, specially benefited from improvements in the same manner as provided for counties by chapter 36.94 RCW.

Sec. 61. Section 7, chapter 136, Laws of 1967 ex. sess. as amended by section 22, chapter 315, Laws of 1983 and RCW 86.15.176 are each amended to read as follows:

The supervisors may provide by resolution for revenues by fixing rates and charges for the furnishing of service to those served(~~(including public entities,))~~ or receiving benefits from a flood control improvement(~~((PROVIDED, That))~~) including public entities, except as otherwise provided in section 54 of this 1986 act. The service charge shall be uniform for the same class of benefits or service. In classifying services furnished or benefits received the board may in its discretion consider the character and use of land and its water runoff characteristics and any other matters that present a reasonable difference as a ground for distinction. Service charges shall be applicable to a zone or participating zones. The disposition of all revenue from service charges shall be in accordance with RCW 86.15.130.

Sec. 62. Section 8, chapter 315, Laws of 1983 and RCW 90.03.500 are each amended to read as follows:

The legislature finds that increasing the surface water or storm water accumulation on or flow over real property, beyond that which naturally occurs on the real property, may cause severe damage to the real property and limit the gainful use or enjoyment of the real property, resulting in a tort, nuisance, or taking. The damage can arise from activities increasing the point or nonpoint flow of surface water or storm water over the real property, or altering or interrupting the natural drainage from the real property. The legislature finds that it is in the public interest to permit the construction and operation of public improvements to lessen the damage. The legislature further finds that it is in the public interest to provide for the equitable imposition of special assessments, rates, and charges to fund such improvements. This shall include the imposition of special assessments, rates, and charges on real property to fund that reasonable portion of the public improvements that alleviate the damage arising from activities that are the proximate cause of the damage on other real property. Except as otherwise provided in section 54 of this 1986 act, these special assessments, rates, and charges may be imposed on any publicly-owned, including state-owned, real property that causes such damage.

Sec. 63. Section 9, chapter 315, Laws of 1983 and RCW 90.03.510 are each amended to read as follows:

Whenever a county, city, town, sewer district, or flood control zone district imposes rates or charges to fund storm water control facilities or improvements and the operation and maintenance of such facilities or improvements under RCW 35.67.020, 35.92.020, 36.89.080, 36.94.140, 56.08.010, or 56.16.090, it (~~(shall))~~ may provide a credit for the value of storm water control facilities or improvements that a person or entity has installed or located that mitigate or lessen the impact of storm water which otherwise would occur.

Sec. 64. Section 84.64.050, chapter 15, Laws of 1961 as last amended by section 2, chapter 179, Laws of 1984 and by section 19, chapter 220, Laws of 1984 and RCW 84.64.050 are each reenacted and 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 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(~~(, at least thirty days)~~) 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. 65. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to section 46(43), Substitute Senate Bill No. 4486, entitled:

"AN ACT Relating to local government."

I am vetoing section 46(43) because it would repeal a section of an existing law (RCW 85.20.120) that is also amended by section 36 of this bill.

With the exception of section 46(43), the remainder of Substitute Senate Bill No. 4486 is approved."

CHAPTER 279

[Engrossed Substitute Senate Bill No. 4917] BANKS AND TRUST COMPANIES

AN ACT Relating to banks and trust companies; amending RCW 30.04.030, 30.04.075, 30.04.120, 30.04.130, 30.04.140, 30.04.180, 30.04.210, 30.04.215, 30.04.238, 30.04.380, 30.04.390, 30.04.405, 30.08.010, 30.08.020, 30.08.050, 30.08.060, 30.08.070, 30.08.082, 30.08.084, 30.08.086, 30.08.087, 30.08.088, 30.08.090, 30.08.140, 30.12.010, 30.12.020, 30.12.030, 30.12.050, 30.12.110, 30.20.060, 30.40.020, 30.04.550, 30.04.555, 30.04.560, 30.49.010, 30.43.010, and 30.49.040; adding new sections to chapter 30.04 RCW; adding a new section to chapter 30.08 RCW; adding new sections to chapter 30.12 RCW; adding a new section to chapter 43.19 RCW; creating new sections; repealing RCW 30.04.040, 30.04.100, 30.04.110, 30.04.122, 30.04.124, 30.04.126, 30.04.128, 30.04.160, 30.04.170, 30.04.190, 30.04.340, 30.04.350, 30.04.360, 30.12.080, 30.12.140, 30.12.150, 30.12.160, 30.12.170, 30.12.200, 30.12.210, 30.20.070, 30.20.080, and 30.40.060; and declaring an emergency.

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

Sec. 1. Section 30.04.030, chapter 33, Laws of 1955 and RCW 30.04.030 are each amended to read as follows:

The supervisor shall have power to adopt uniform rules and regulations in accordance with the administrative procedure act, chapter 34.04 RCW, to govern examinations and reports of banks and trust companies and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of this title. He shall mail a copy of the rules and regulations to each bank and trust company at its principal place of business ~~((, and they shall be effective thirty days after the mailing thereof. The person doing the mailing shall make and file his affidavit thereof in the office of the supervisor))~~.

The supervisor shall have the power, and broad administrative discretion, to administer and interpret the provisions of this title to facilitate the delivery of financial services to the citizens of the state of Washington by the banks and trust companies subject to this title.

Sec. 2. Section 1, chapter 245, Laws of 1977 ex. sess. and RCW 30.04.075 are each amended to read as follows:

(1) All examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of banks, trust companies, or alien banks is confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity ~~((except as provided by RCW 39.58.105))~~.

(2) Subsection (1) of this section notwithstanding, the supervisor may furnish all or any part of examination reports prepared by the supervisor's office to:

(a) Federal agencies empowered to examine state banks, trust companies, or alien banks; ((to the examined bank, trust company, or alien bank as provided in subsection (4) of this section; and to))

(b) Officials empowered to investigate criminal charges subject to legal process, valid search warrant, or subpoena. If the supervisor furnishes any examination report to officials empowered to investigate criminal charges, the supervisor may only furnish that part of the report which is necessary and pertinent to the investigation, and the supervisor may do this only after notifying the affected bank, trust company, or alien bank and any customer of the bank, trust company, or alien bank who is named in that part of the examination or report ((of the order to furnish the part of the examination report)) ordered to be furnished unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause;

(c) The examined bank, trust company, or alien bank, or holding company thereof;

(d) The attorney general in his or her role as legal advisor to the supervisor;

(e) Liquidating agents of a distressed bank, trust company, or alien bank;

(f) A person or organization officially connected with the bank as officer, director, attorney, auditor, or independent attorney or independent auditor;

(g) The Washington public deposit protection commission as provided by RCW 39.58.105.

(3) All examination reports furnished under subsections (2) and (4) of this section shall remain the property of the division of banking, and be confidential and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: PROVIDED, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the division of banking is designed for use in the supervision of the bank, trust company, or alien bank ~~((, and the supervisor may furnish a copy of the report to the bank, trust company, or alien bank examined))~~. The report shall remain the property of the supervisor and will be furnished to the bank, trust company, or alien bank solely for its confidential use. Under no circumstances shall the

bank, trust company, or alien bank or any of its directors, officers, or employees disclose or make public in any manner the report or any portion thereof, to any person or organization not connected with the bank as officer, director, employee, attorney, auditor, or candidate for executive office with the bank. The bank may also, after execution of an agreement not to disclose information in the report, disclose the report or relevant portions thereof to a party proposing to acquire or merge with the bank.

(5) Examination reports and information obtained by the supervisor and the supervisor's staff in conducting examinations shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the supervisor, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the supervisor.

(7) This section shall not apply to investigation reports prepared by the supervisor and the supervisor's staff concerning an application for a new bank or trust company or an application for a branch of a bank, trust company, or alien bank: PROVIDED, That the supervisor may adopt rules making confidential portions of the reports if in the supervisor's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the supervisor considers necessary to fully evaluate the application.

(8) Every person who violates any provision of this section shall (~~forfeit the person's office or employment and~~) be guilty of a gross misdemeanor.

NEW SECTION. Sec. 3. The total loans and extensions of credit by a bank or trust company to a person outstanding at any one time shall not exceed twenty percent of the capital and surplus of such bank or trust company. The following loans and extensions of credit shall not be subject to this limitation:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse;

(2) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or treasury bills of the United States or by other such obligations wholly guaranteed as to principal and interest by the United States;

(3) Loans or extensions of credit to or secured by unconditional take-out commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States;

(4) Loans or extensions of credit fully secured by a segregated deposit account or accounts in the lending bank;

(5) Loans or extensions of credit secured by collateral having a readily ascertained market value of at least one hundred fifteen percent of the outstanding amount of the loan or extension of credit;

(6) Loans or extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of thirty-five percent of capital and surplus in addition to the general limitations, if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds one hundred fifteen percent of the outstanding amount of the loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure the staples;

(7) The purchase of bankers' acceptances of the kind described in section 13 of the federal reserve act and issued by other banks shall not be subject to any limitation based on capital and surplus;

(8) The unpaid purchase price of a sale of bank property, if secured by such property.

For the purposes of this section "capital" shall include the amount of common stock outstanding and unimpaired, the amount of preferred stock outstanding and unimpaired, and capital notes or debentures issued pursuant to chapter 30.36 RCW.

For the purposes of this section "surplus" shall include capital surplus, reflecting the amounts paid in excess of the par or stated value of capital stock, or amounts contributed to the bank other than for capital stock, and amounts transferred to surplus from undivided profits pursuant to resolution of the board of directors.

The term "person" shall include an individual, sole proprietor, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

The supervisor may prescribe rules to administer and carry out the purposes of this section, including rules to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit, and to determine when a loan putatively made to a person shall, for purposes of this section, be attributed to another person.

Sec. 4. Section 30.04.120, chapter 33, Laws of 1955 as amended by section 1, chapter 104, Laws of 1973 1st ex. sess. and RCW 30.04.120 are each amended to read as follows:

The shares of stock of every bank and trust company shall be deemed personal property. No such corporation shall hereafter make any loan or discount on the security of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; in which case the stocks so purchased or acquired shall be sold at public or

private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by any such bank or trust company for its own account of any shares of stock of any corporation, except a federal reserve bank of which such corporation shall become a member, and then only to the extent required by such federal reserve bank: PROVIDED, That any ((such)) bank or trust company may purchase, acquire and hold shares of stock in any other corporation which shares have been previously pledged as security to any loan or discount made in good faith and such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith and stock so purchased or acquired shall be sold at public or private sale or otherwise disposed of within two years from the time of its purchase or acquisition. Any time limit imposed in this section may be extended by the supervisor upon cause shown. Banks and trust companies are authorized to make loans on the security of the capital stock of a bank or trust company other than the lending corporation.

NEW SECTION. Sec. 5. Unless otherwise prohibited by law, any state bank or trust company may invest in the capital stock of corporations organized to conduct the following businesses:

(1) A safe deposit business: PROVIDED, That the amount of investment does not exceed fifteen percent of its capital stock and surplus;

(2) A corporation holding the premises of the bank or its branches: PROVIDED, That without the approval of the supervisor, the investment of such stock shall not exceed, together with all loans made to the corporation by the bank, a sum equal to the amount permitted to be invested in the premises by RCW 30.04.210;

(3) Stock in a small business investment company licensed and regulated by the United States as authorized by the small business act, Public Law 85-536, 72 Statutes at Large 384, in an amount not to exceed five percent of its capital and surplus;

(4) Capital stock of a banking service corporation or corporations. The total amount that a bank may invest in the shares of such corporation may not exceed ten percent of its capital and surplus. A bank service corporation may not engage in any activity other than those permitted by the bank service corporation act, 12 U.S.C. Sec. 1861, et seq., as subsequently amended and in effect on the effective date of this act. The performance of any service, and any records maintained by any such corporation for a bank, shall be subject to regulation and examination by the supervisor and appropriate federal agencies to the same extent as if the services or records were being performed or maintained by the bank on its own premises;

(5) Capital stock of a federal reserve bank to the extent required by such federal reserve bank;

(6) A corporation engaging in business activities that have been determined by the board of governors of the federal reserve system or by the United States congress to be closely related to the business of banking, as of the effective date of this act;

(7) A governmentally sponsored corporation engaged in secondary marketing of loans and the stock of which must be owned in order to participate in its marketing activities;

(8) A corporation in which all of the voting stock is owned by the bank and that engages exclusively in nondeposit-taking activities that are authorized to be engaged in by the bank or trust company.

Sec. 6. Section 30.04.130, chapter 33, Laws of 1955 and RCW 30.04.130 are each amended to read as follows:

Any debt due a bank or trust company on which interest is one year or more past due and unpaid, unless such debt be well secured and in the course of collection by legal process or probate proceedings, or unless such debt be represented by or secured by bonds or other collateral having a ((determinable)) readily ascertainable market value ((currently quoted on the New York stock exchange,)) shall be considered a bad debt, and shall be charged off of the books of such corporation. Such ((bonds)) assets shall be carried on the books of such corporation at such value as the supervisor may from time to time direct, but in no event shall such carrying value exceed the market value thereof. A judgment held by a bank or trust company shall not be considered an asset of the corporation after two years from the date of its rendition unless with the written permission of the supervisor specifying an additional period: PROVIDED, That time consumed by any appeal shall be excluded.

All assets or portion thereof that the supervisor may have required a bank or trust company to charge off shall be charged off. No bank or trust company shall enter or at any time carry on its books any of its assets at a valuation exceeding the actual cost. However, accreting the discount on securities is permitted on a pro rata basis, over the life of the security.

Sec. 7. Section 30.04.140, chapter 33, Laws of 1955 as last amended by section 6, chapter 157, Laws of 1983 and RCW 30.04.140 are each amended to read as follows:

No bank or trust company shall pledge or hypothecate any of its securities or assets to any depositor, except that it may qualify as depository for United States deposits, ((postal savings funds)) or other public funds, or funds held in trust and deposited by any public officer by virtue of his office, or as a depository for the money of estates under the statutes of the United States pertaining to bankruptcy or funds deposited by a trustee or receiver in bankruptcy appointed by any court of the United States or any referee thereof, or funds held by the United States or the state of Washington, or any officer thereof in trust, or for funds of corporations owned or controlled by the United States, and may give such security for such deposits as are

required by law or by the officer making the same; and it may give security to its trust department for deposits with itself which represent trust funds invested in savings accounts or which represent fiduciary funds awaiting investment or distribution.

Sec. 8. Section 30.04.180, chapter 33, Laws of 1955 as last amended by section 1, chapter 89, Laws of 1981 and RCW 30.04.180 are each amended to read as follows:

No bank or trust company shall declare or pay any dividend to an amount greater than its net profits then on hand(~~(, which net profits shall be determined only after deducting:~~

~~(1) All losses;~~

~~(2) All assets or depreciation that the supervisor or a duly appointed examiner may have required to be charged off; and no bank or trust company shall enter or at any time carry on its books any of its assets at a valuation exceeding the actual cost. However, amortizing the discount on municipal and United States government securities is permitted on a pro rata basis, over the life of the security, providing that the approval of the supervisor has been obtained and maintained by each individual bank;~~

~~(3) All expenses, interest and taxes due or accrued from said bank or trust company;~~

~~(4) Bad debts as defined by RCW 30.04.130 owing to such bank or trust company)).~~

~~((After providing for the above deductions))~~ The board of directors of any bank or trust company may ((at any regular meeting thereof)) declare a dividend out of so much of the undivided profits of such bank or trust company as they shall judge expedient: PROVIDED, HOWEVER, That before any such dividend is declared or the net profits in any way disposed of, not less than one-tenth of such net profits shall be carried to a surplus fund until the amount in such surplus fund shall be equal to twenty-five percent of the paid-in common ((capital)) stock of such bank or trust company: PROVIDED, FURTHER, That for the purposes of this section, any amounts paid into a fund for the retirement of any preferred stock of any such bank and trust company out of its net profits for such period or periods shall be deemed to be additions to its surplus fund if, upon the retirement of such preferred stock, the amounts so paid into such retirement fund may then properly be carried to surplus. In any such case the bank and trust company shall be obligated to transfer to surplus the amounts so paid into such retirement fund on account of the preferred stock as such stock is retired: PROVIDED FURTHER, That the supervisor shall in his discretion have the power to require any bank or trust company to suspend the payment of any and all dividends until all requirements that may have been made by the supervisor ((or any duly appointed examiner)) shall have been complied with; and upon such notice to suspend dividends no bank or trust company shall thereafter declare or pay any dividends until such notice has

been rescinded in writing. (~~As to banks or trust companies having segregated savings, sums carried to surplus shall be apportioned between or among departments as the capital is apportioned:)) A dividend is payable in property or capital stock.~~

Sec. 9. Section 30.04.210, chapter 33, Laws of 1955 as last amended by section 4, chapter 329, Laws of 1985 and RCW 30.04.210 are each amended to read as follows:

A bank or trust company may purchase, hold, and convey real estate for the following purposes (~~and no other~~):

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other (~~apartments~~) space in the same building to rent as a source of income: PROVIDED, That any bank or trust company shall not invest for such purposes more than the greater of: (a) Fifty percent of its capital, surplus, and undivided profits; or (b) one hundred twenty-five percent of its capital stock without the approval of the supervisor.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of its business.

(3) Such as it shall purchase at sale under judgments, decrees, liens, or mortgage foreclosures, (~~against securities held by~~) from debts owed to it.

(4) Such as a trust company receives in trust or acquires pursuant to the terms or authority of any trust.

(5) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

(6) Such as shall be purchased, held, or conveyed in accordance with RCW 30.04.212 granting banks the power to invest directly or indirectly in unimproved or improved real estate.

No real estate specified in subdivision (4) shall be considered an asset of the bank or trust company holding the same in trust nor shall any real estate except that specified in subdivision (1) be carried as an asset on the bank's or trust company's books for a longer period than five years from the date title is acquired thereto, unless an extension of time be granted by the supervisor.

Sec. 10. Section 7, chapter 136, Laws of 1969 as amended by section 8, chapter 157, Laws of 1983 and RCW 30.04.215 are each amended to read as follows:

(1) Notwithstanding any other provisions of law, in addition to all powers enumerated by this title, and those necessarily implied therefrom, a bank may engage in other business activities that have been determined by the board of governors of the federal reserve system or by the United States Congress to be closely related to the business of banking, as of (~~April 25, 1983~~) the effective date of this 1986 act. At least thirty days before investment in corporations or other entities under this chapter, notification by

letter shall be made to the supervisor in accordance with such terms and conditions as the supervisor might establish by rule.

(2) A bank that desires to perform an activity that is not expressly authorized by subsection (1) of this section shall first apply to the supervisor for authorization to conduct such activity. Within thirty days of the receipt of this application, the supervisor shall determine whether the activity is closely related to the business of banking, whether the public convenience and advantage will be promoted, whether the activity is apt to create an unsafe or unsound practice by the bank and whether the applicant is capable of performing such an activity. If the supervisor finds the activity to be closely related to the business of banking and the bank is otherwise qualified, he shall forthwith inform the applicant that the activity is authorized. If the supervisor determines that such activity is not closely related to the business of banking or the bank is not otherwise qualified, he shall forthwith inform the applicant in writing. The applicant shall have the right to appeal from an unfavorable determination in accordance with the procedures of the Administrative Procedure Act, chapter 34.04 RCW. In determining whether a particular activity is closely related to the business of banking, the supervisor shall be guided by the rulings of the board of governors of the federal reserve system and the comptroller of the currency in making determinations in connection with the powers exercisable by bank holding companies, and the activities performed by other commercial banks or their holding companies. Any activity which may be performed by a bank, except the taking of deposits, may be performed by a corporation, all of the outstanding stock of which is owned by the bank. (~~(A bank shall not invest a sum greater than twenty-five percent of its capital and surplus in the capital stock of corporations organized to perform activities authorized by this section:))~~)

(3) In addition to all powers enumerated by this title, and those necessarily implied therefrom, a bank may engage in other business activities that are determined by the supervisor, by regulation adopted pursuant to chapter 34.04 RCW, to be closely related to the business of banking, or necessary or convenient thereto, and the exercise thereof will promote the public convenience and advantage. Provided, however, that such other business activities shall also have been determined by the board of governors of the federal reserve system or by the United States congress to be closely related to the business of banking.

NEW SECTION. Sec. 11. In the absence of an express prohibition in its articles of incorporation, the making of contributions or gifts for the public welfare, or for charitable, scientific, or educational purposes by a state bank or trust company is within its powers and shall be deemed to inure to the benefit of the bank.

Sec. 12. Section 1, chapter 305, Laws of 1985 and RCW 30.04.238 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, a bank, with the prior approval of the supervisor, may purchase shares of its own capital stock. ~~((However, no bank may purchase and hold at any time more than five percent of its outstanding shares. Shares purchased under this section shall not be held for a period greater than six months.))~~

(2) When a bank purchases such shares, its capital accounts shall be reduced appropriately. The shares shall be held as authorized but unissued shares ~~((, but may be resold at any time within six months after acquisition for a price equal to or greater than the higher of the acquisition price or par value. Except as provided in this subsection, shares shall not be sold without the prior written approval of the supervisor))~~.

Sec. 13. Section 9, chapter 104, Laws of 1973 1st ex. sess. and RCW 30.04.380 are each amended to read as follows:

Any bank or trust company ~~((which is a member of the federal reserve system;))~~ may invest an amount not exceeding ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered under the laws of the United States, or of any state thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Sec. 14. Section 10, chapter 104, Laws of 1973 1st ex. sess. and RCW 30.04.390 are each amended to read as follows:

Any bank or trust company ~~((which is a member of the federal reserve system;))~~ may acquire and hold, directly or indirectly, stock or other evidence of indebtedness ~~((of))~~ or ownership in one or more banks organized under the law of a foreign country or a dependency or insular possession of the United States.

Sec. 15. Section 2, chapter 246, Laws of 1977 ex. sess. as amended by section 5, chapter 305, Laws of 1985 and RCW 30.04.405 are each amended to read as follows:

(1) It is unlawful for any person to acquire control of a bank until thirty days after filing with the supervisor a copy of the notice of change of control required to be filed with the federal deposit insurance corporation or a completed application. The notice or application shall be under oath and contain substantially all of the following information plus any additional information that the supervisor may prescribe as necessary or appropriate in the particular instance for the protection of bank depositors, borrowers, or shareholders and the public interest:

(a) The identity, banking and business experience of each person by whom or on whose behalf acquisition is to be made;

(b) The financial and managerial resources and future prospects of each person involved in the acquisition;

(c) The terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(d) The source and amount of the funds or other consideration used or to be used in making the acquisition, and a description of the transaction and the names of the parties if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition;

(e) Any plan or proposal which any person making the acquisition may have to liquidate the bank, to sell its assets, to merge it with any other bank, or to make any other major change in its business or corporate structure for management;

(f) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, who makes solicitations or recommendations to shareholders for the purpose of assisting in the acquisition and a brief description of the terms of the employment, retainer, or arrangement for compensation; and

(g) Copies of all invitations for tenders or advertisements making a tender offer to shareholders for the purchase of their stock to be used in connection with the proposed acquisition.

(2) Notwithstanding any other provision of this section, a bank or domestic bank holding company as defined in RCW 30.04.230 need only notify the supervisor of an intent to acquire control and the date of the proposed acquisition of control at least thirty days before the date of the acquisition of control.

(3) When a person, other than an individual or corporation, is required to file an application under this section, the supervisor may require that the information required by subsection (1)(a), (b), and (f) of this section be given with respect to each person, as defined in RCW 30.04.400(3), who has an interest in or controls a person filing an application under this subsection.

(4) When a corporation is required to file an application under this section, the supervisor may require that information required by subsection (1)(a), (b), and (f) of this section be given for the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation.

(5) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by means of a registration statement under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C., Sec. 77(a)), as amended, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C., Sec. 78(a)), as amended, the registration statement or application may be filed with the supervisor in lieu of the requirements of this section.

(6) Any acquiring party shall also deliver a copy of any notice or application required by this section to the bank proposed to be acquired within two days after the notice or application is filed with the supervisor.

(7) Any acquisition of control in violation of this section shall be ineffective and void.

((7)) (8) Any person who wilfully or intentionally violates this section or any rule adopted pursuant thereto is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation, and any person shall upon conviction be fined not more than one thousand dollars for each day the violation continues.

NEW SECTION. Sec. 16. Any investment by a bank other than a loan, if legal and authorized when made, may continue to be held by the bank notwithstanding a change in circumstances or change in the law.

Sec. 17. Section 30.08.010, chapter 33, Laws of 1955 as last amended by section 3, chapter 104, Laws of 1973 1st ex. sess. and RCW 30.08.010 are each amended to read as follows:

When authorized by the supervisor, as hereinafter provided, five or more natural persons, citizens of the United States, may incorporate a bank or trust company in the manner herein prescribed. No bank or trust company shall incorporate for less amount nor commence business unless it ((have)) has a paid-in capital ((as follows:

In cities, villages or communities having a population of less than 25,000	\$ 50,000.00
In cities having a population of 25,000 and less than 100,000	100,000.00
In cities having a population of 100,000 or more	200,000.00

~~PROVIDED, That on request of any persons desiring to incorporate a bank in a city having a population of twenty-five thousand or over, the supervisor shall make an order defining the boundaries of the central business district of such city, which shall include the district in which is carried on the principal retail, financial and office business of such city and banks may be incorporated with a paid-up capital of not less than fifty thousand dollars to be located in such city outside of the central business district of such city as defined by the order of the supervisor, which shall be stated in its articles of incorporation, but any such bank which shall be hereafter incorporated to be located outside such central business district, which shall thereafter change its location into such central business district without increasing its capital stock and surplus to the amount required by then existing laws to incorporate a bank within such central business district, shall forfeit its charter and right to do business. The supervisor may from time to time change the boundaries of said central business district, if, in his judgment, such action is proper.~~

~~In addition to the foregoing,)) stock, surplus and undivided profits in the amount as may be determined by the supervisor after consideration of the proposed location, management, and the population and economic characteristics for the area, the nature of the proposed activities and operation of the bank or trust company, and other factors deemed pertinent by the supervisor. Each bank and trust company shall before commencing business have subscribed and paid into it in the same manner as is required for capital stock, an ~~((additional))~~ amount equal to at least ten percent of the capital stock above required~~((Such additional amount)), that~~ shall be carried in the undivided profit account and may be used to defray organization and operating expenses of the company ~~((deemed reasonable by the supervisor))~~. Any sum not so used shall be transferred to the surplus fund of the company before any dividend shall be declared to the stockholders.~~

Sec. 18. Section 30.08.020, chapter 33, Laws of 1955 as last amended by section 1, chapter 73, Laws of 1981 and RCW 30.08.020 are each amended to read as follows:

Persons desiring to incorporate a bank or trust company shall file with the supervisor a notice of their intention to organize a bank or trust company in such form and containing such information as the supervisor shall prescribe by regulation, together with proposed articles of incorporation, which shall be submitted for examination to the supervisor at his office in Olympia.

The proposed articles of incorporation shall state:

- (1) The name of such bank or trust company.
- (2) The city, village or locality and county where the head office of such corporation is to be located.
- (3) The nature of its business, whether that of a commercial bank, ~~((a savings bank or both))~~ or a trust company.
- (4) The amount of its capital stock, which shall be divided into shares of ~~((not less than ten dollars each, nor more than one hundred dollars each,))~~ a par or no par value as may be provided in the articles of incorporation.

~~(5) ((The period for which such corporation is organized, which may be for a stated number of years or perpetual.~~

~~(6))~~ The names and places of residence and mailing addresses of the persons who as directors are to manage the corporation until the first annual meeting of its stockholders.

~~((7) In articles filed on or before June 1, 1985, for four years from the date of approval of the articles (a) no voting share of the corporation shall, without the prior written approval of the supervisor, be affirmatively voted for any proposal which would have the effect of sale, conversion, merger, or consolidation to or with, any other banking entity or affiliated financial interest, whether through transfer of stock ownership, sale of assets, or otherwise, (b) the corporation shall take no action to consummate any sale,~~

~~conversion, merger, or consolidation in violation of this subdivision, (c) this provision of the articles shall not be revoked, altered, or amended by the shareholders without the prior written approval of the supervisor, and (d) all stock issued by the corporation shall be subject to this subdivision and a copy hereof shall be placed upon all certificates of stock issued by the corporation:))~~

(6) If there is to be preferred or special classes of stock, a statement of preferences, voting rights, if any, limitations and relative rights in respect of the shares of each class; or a statement that the shares of each class shall have the attributes as shall be determined by the bank's board of directors from time to time with the approval of the supervisor.

(7) Any provision granting the shareholders the preemptive right to acquire additional shares of the bank and any provision granting shareholders the right to cumulate their votes.

(8) 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 corporation, including any provision restricting the transfer of shares and any provision which under this title is required or permitted to be set forth in the bylaws.

(9) Any provision the incorporators elect to so set forth, not inconsistent with law or the purposes for which the bank is organized, or any provision limiting any of the powers granted in this title.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers granted in this title. The articles of incorporation shall be signed by all of the incorporators and acknowledged before an officer to take acknowledgments.

Sec. 19. Section 30.08.050, chapter 33, Laws of 1955 as last amended by section 16, chapter 302, Laws of 1981 and RCW 30.08.050 are each amended to read as follows:

In case of approval the supervisor shall forthwith give notice thereof to the proposed incorporators and file one of the triplicate articles of incorporation in his own office, and shall transmit another triplicate to the secretary of state, and the last to the incorporators. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other articles of incorporation the secretary of state shall file such articles and record the same. Upon the filing of articles of incorporation ~~((in triplicate:))~~ approved as aforesaid by the supervisor, with the secretary of state, all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by this title, and whose existence shall continue from the date of the filing of such articles ~~((for the term mentioned in its articles of incorporation unless sooner))~~ until terminated pursuant to law; but such corporation shall not transact any business except as is necessarily preliminary to

its organization until it has received a certificate of authority as provided herein.

Sec. 20. Section 30.08.060, chapter 33, Laws of 1955 as last amended by section 17, chapter 302, Laws of 1981 and RCW 30.08.060 are each amended to read as follows:

Before any bank or trust company shall be authorized to do business, and within ninety days after approval of the articles of incorporation or such other time as the supervisor may allow, it shall furnish proof satisfactory to the supervisor that such corporation has a paid-in capital in the amount ~~((fixed by its articles of incorporation and by this title))~~ determined by the supervisor, that the requisite surplus or reserve fund has been accumulated or paid in cash, and that it has in good faith complied with all the requirements of law and fulfilled all the conditions precedent to commencing business imposed by this title. If so satisfied, and within thirty days after receipt of such proof, the supervisor shall issue under his hand and official seal, in triplicate, a certificate of authority for such corporation. The certificate shall state that the corporation therein named has complied with the requirements of law, that it is authorized to transact ~~((at the place designated in its articles of incorporation))~~ the business of a bank or trust company, or both, as the case may be: **PROVIDED, HOWEVER,** That the supervisor may make his issuance of the certificate to a bank or trust company authorized to accept deposits, conditional upon the granting of deposit insurance by the federal deposit insurance corporation, and in such event, shall set out such condition in a written notice which shall be delivered to the corporation.

One of the triplicate certificates shall be transmitted by the supervisor to the corporation and one of the other two shall be filed by the supervisor in the ~~((same offices where the articles of incorporation are filed))~~ office of the secretary of state and shall be attached to said articles of incorporation~~((and the one filed with the secretary of state shall be recorded))~~: **PROVIDED, HOWEVER,** That if the issuance of the certificate is made conditional upon the granting of deposit insurance by the federal deposit insurance corporation, the supervisor shall not transmit or file the certificate until such condition is satisfied.

Sec. 21. Section 30.08.070, chapter 33, Laws of 1955 as amended by section 18, chapter 302, Laws of 1981 and RCW 30.08.070 are each amended to read as follows:

Every corporation heretofore or hereafter authorized by the laws of this state to do business as a bank~~((;))~~ or trust company, ~~((mutual savings bank or industrial loan company;))~~ which corporation shall have failed to organize and commence business within six months after certificate of authority to commence business has been issued by the supervisor, shall forfeit its rights and privileges as such corporation, which fact the supervisor shall certify to the secretary of state, and such certificate of forfeiture shall be

filed and recorded in the office of the secretary of state in the same manner as the certificate of authority: PROVIDED, That the supervisor may, upon showing of cause satisfactory to him, issue an order under his hand and seal extending for not more than three months the time within which such organization may be effected and business commenced, such order to be transmitted to the office of the secretary of state and filed and recorded therein.

Sec. 22. Section 4, chapter 89, Laws of 1981 and RCW 30.08.082 are each amended to read as follows:

(1) Notwithstanding any other provisions of law and if so authorized by its articles of incorporation or amendments thereto made in the manner provided in the case of a capital increase, any bank ((and)) or trust company may, pursuant to action taken by its board of directors from time to time with the approval of the supervisor, ((and in the manner provided in the case of a capital increase;)) issue shares of preferred ((stock of one or more classes)) or special classes of stock with the attributes and in such amounts and with such par value, if any, as shall be ((approved by)) determined by the board of directors from time to time with the approval of the supervisor((; and make such amendments to its articles of incorporation as may be necessary for this purpose; but, in the case of any newly organized bank and trust company which has not yet issued common stock, the requirements of notice to and vote of shareholders shall not apply)). No increase of preferred stock shall be valid until the amount thereof shall have been subscribed and actually paid in and a certificate of increase is received from the supervisor.

(2) If provided in its articles of incorporation, a bank or trust company may issue shares of preferred or special classes having any one or several of the following provisions:

(a) Subjecting the shares to the right of the bank or trust company to repurchase or retire any such shares at the price fixed by the articles of incorporation for the repurchase or retirement thereof;

(b) Entitling the holders thereof to cumulative, noncumulative, or partially cumulative dividends;

(c) Having preference over any other class or classes of shares as to the payment of dividends;

(d) Having preference in the assets of the bank or trust company over any other class or classes of shares upon the voluntary or involuntary liquidation of the bank or trust company;

(e) Having voting or nonvoting rights; and

(f) Being convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation.

NEW SECTION. Sec. 23. A new section is added to chapter 30.08 RCW to read as follows:

(1) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series, and fixed and determined the variations in the relative rights and preferences as between series, the board of directors have authority to divide any or all of the classes into series and, within the limitation set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

(2) In order for the board of directors to establish a series, where authority to do so is contained in the articles of incorporation., the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as is not fixed and determined by the articles of incorporation.

(3) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file and execute in the manner provided in this section a statement setting forth:

(a) The name of the bank;

(b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof;

(c) The date of adoption of such resolution; and

(d) That the resolution was duly adopted by the board of directors.

(4) The statement shall be executed in triplicate by the bank by one of its officers and shall be delivered to the supervisor. If the supervisor finds that the statement conforms to law, the supervisor shall, when all fees have been paid as provided in this title:

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

(b) File two of the originals; and

(c) Return the other original to the bank or its representative.

(5) Upon the filing of the statement by the supervisor with the secretary of state, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation.

Sec. 24. Section 5, chapter 89, Laws of 1981 and RCW 30.08.084 are each amended to read as follows:

Notwithstanding any other provisions of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of shares of preferred (~~(stock issued pursuant to section 5 of this act)~~) or special classes of stock shall be entitled to receive such (~~(cumulative)~~) dividends on the purchase price received by the bank (~~(and)~~) or trust company for such stock (~~(and shall have such voting and conversion rights and such control of management and in the event of the retirement of such~~

~~stock shall receive such retirement price, not in excess of such purchase price plus all accumulated dividends;)) as may be provided by the articles of incorporation or by the board of directors of the bank or trust company with the approval of the supervisor.~~

~~((The holders of such preferred stock shall not be held individually responsible as such holders for any debts, contracts, or engagements of such bank and trust company and shall not be liable for assessments to restore impairments in the capital of such bank and trust company as is now provided by law with reference to holders of common stock:))~~

No dividends shall be declared or paid on common stock until ((the)) cumulative dividends, if any, on the shares of preferred or special classes of stock shall have been paid in full; and, if the supervisor takes possession of a bank or trust company for purposes of liquidation, no payments shall be made to the holders of the common stock until the holders of the shares of preferred or special classes of stock shall have been paid in full such amount as may be provided ~~((in the articles of incorporation with the approval of the supervisor, not in excess of such purchase price of such preferred stock))~~ under the terms of said shares plus all accumulated dividends, if any.

Sec. 25. Section 6, chapter 89, Laws of 1981 and RCW 30.08.086 are each amended to read as follows:

If any part of the capital of a bank and trust company consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based on the ((par)) value of its stock as established at the time it was issued, or its par value, if any, even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the originally established value or the par value of such preferred stock.

Sec. 26. Section 1, chapter 140, Laws of 1965 as amended by section 1, chapter 106, Laws of 1979 and RCW 30.08.087 are each amended to read as follows:

Any bank or trust company may provide in its articles of incorporation or amendments thereto for authorized but unissued shares of its capital stock ~~((for the following purposes;~~

~~(1) For issuance and sale pursuant to approved stock option plans, stock purchase plans, stock bonus plans, or other similar plans approved by the supervisor;~~

~~(2) For issuing and selling minimum qualifying shares to new directors;~~

~~(3) For any other purpose; when the total amount of such shares is not more than fifty percent of the currently issued and outstanding stock.~~

If such shares are issued pursuant to approved stock option plans, the consideration received for such shares shall not be less than the higher of par value or one hundred percent of fair market value of the shares at the time the option is granted. If such shares are issued pursuant to approved

~~stock purchase plans, the consideration received for such shares shall not be less than the higher of par value or one hundred percent of fair market value of the shares at the time of purchase. If such shares are issued in order to qualify a new director of the corporation, the consideration received shall not be less than the higher of par value or ninety-five percent of the fair value of the shares at the time of the sale)). The shares may be issued for such consideration as shall be established by the board from time to time but for not less than the par value, if any, and all consideration received therefor shall be allocated to the capital stock or surplus of the corporation.~~

Sec. 27. Section 2, chapter 140, Laws of 1965 as amended by section 2, chapter 106, Laws of 1979 and RCW 30.08.088 are each amended to read as follows:

~~((Any amendments to articles of incorporation which provide for authorized but unissued stock shall be made as provided in the case of a capital increase which is to be paid in full before becoming effective. However,))~~
The authorized but unissued shares shall not become a part of the capital stock ((except for the purposes hereof)) until they have been issued and paid for ((in cash)). Prior to the issuance of authorized but unissued stock, the bank shall notify the supervisor of the proposed issuance and the consideration to be received therefor and receive the supervisor's approval thereof, except that such notification and such approval shall not be required if the authorized but unissued stock is issued to employees of the bank pursuant to approved stock option, stock purchase, stock bonus or other similar plans approved by the supervisor.

Sec. 28. Section 30.08.090, chapter 33, Laws of 1955 as amended by section 3, chapter 140, Laws of 1965 and RCW 30.08.090 are each amended to read as follows:

Any bank or trust company may increase or decrease its capital stock or otherwise amend its articles of incorporation, in any manner not inconsistent with the provisions of this title, by a vote of the stockholders representing two-thirds of ~~((its issued capital stock))~~ each class of shares entitled to vote under the terms of the shares at any regular meeting, or special meeting duly called for that purpose in the manner prescribed by its by-laws~~((: PROVIDED, That notice of a meeting to increase or decrease authorized capital stock shall first be published once a week for four weekly issues in a newspaper published in the place in which such corporation is located, or if there be no newspaper published in such place, then in some newspaper published in the same county. The notice shall state the purpose of the meeting, the amount of the present authorized capital stock of the bank or trust company and the proposed new authorized capital stock))~~. A certificate of the fact and the terms of the amendment shall be executed by a majority of the directors and filed as required herein for articles of incorporation. ~~((Except when an amendment provides for authorized but unissued shares as permitted in this title,))~~ No ~~((increase of authorized))~~

issuance of capital stock shall be valid, until the amount thereof shall have been ~~((subscribed and))~~ actually paid in and a certificate of increase is received from the supervisor. No reduction of the capital stock shall be made to an amount less than is required for capital ~~((, nor be valid, nor warrant the cancellation of stock certificates, nor diminish the personal liabilities of the stockholders until such reduction has been approved by the supervisor, nor shall any reduction relieve any stockholder from any liability of the corporation incurred prior thereto))~~ by the supervisor. No amendment shall be made whereby a bank becomes a trust company unless such bank shall first receive permission from the supervisor.

Banks having authorized but unissued stock shall disclose on all statements of condition the amount of authorized stock and the amount of issued and paid in stock, as certified by the supervisor. The supervisor shall certify to each bank having authorized but unissued stock the amount of its issued and paid in capital stock and this amount shall be used in all statements of condition and in computing the capital of the bank for purposes of determining loan or investment limits ~~((and branching powers))~~ until a new certificate is issued by the supervisor. In cases where a bank issues authorized but unissued stock as permitted by this title, a new certificate need not be requested upon each stock issue. However, if the bank so requests and the supervisor approves, a certificate of issued and paid in capital stock shall be issued by the supervisor. A new certificate must be requested at such time as any increase of paid in capital stock represents five percent of the authorized capital stock and at such time as there is no remaining authorized but unissued stock.

Sec. 29. Section 30.08.140, chapter 33, Laws of 1955 as amended by section 3, chapter 248, Laws of 1957 and RCW 30.08.140 are each amended to read as follows:

Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

- (1) To adopt and use a corporate seal.
- (2) To have perpetual succession ~~((for the term mentioned in its articles of incorporation))~~.
- (3) To make contracts.
- (4) To sue and be sued, the same as a natural person.
- (5) To elect directors who, subject to the provisions of the corporation's bylaws, shall have power to appoint such officers as may be necessary or convenient, to define their powers and duties and to dismiss them at pleasure, and who shall also have general supervision and control of the affairs of such corporation.

(6) ~~((To prescribe by its stockholders bylaws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors and officers elected or appointed, its stockholders convened for general or~~

special meetings, its property transferred, its general business conducted and the privileges granted to it by law exercised and enjoyed:

~~(7))~~ 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 its affairs.

(7) To invest and reinvest its funds in marketable obligations evidencing the indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures commonly known as investment securities except as may by regulation be limited by the supervisor.

(8) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, to receive deposits of money and commercial paper, to lend money (~~on real or personal security~~) secured or unsecured, to issue all forms of letters of credit, to buy and sell bullion, coins and bills of exchange.

~~((8))~~ (9) To take and receive as bailee for hire upon terms and conditions to be prescribed by the corporation, for safekeeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, mortgages, securities and valuable paper of any kind and other valuable personal property, and to rent vaults, safes, boxes and other receptacles for safekeeping and storage of personal property.

~~((9))~~ (10) If the bank be located in a city of not more than five thousand inhabitants, to act as insurance agent. A bank exercising this power may continue to act as an insurance agent notwithstanding a change of the population of the city in which it is located.

~~((10))~~ (11) To accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods, providing shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title to readily marketable staples. No bank shall accept, either in a foreign or a domestic transaction, for any one person, company, firm or corporation, to an amount equal at any one time in the aggregate to more than ten percent of its paid up and unimpaired capital stock and surplus unless the bank is secured by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid up and unimpaired capital stock and surplus: PROVIDED, HOWEVER, That the supervisor, under such general regulations applicable to all banks irrespective of the amount of capital or surplus, as he may prescribe may authorize any bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred percent of its paid up and unimpaired capital stock

and surplus: PROVIDED, FURTHER, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty percent of such capital stock and surplus.

~~((H))~~ (12) To accept drafts or bills of exchange drawn upon it, having not more than three months sight to run, drawn under regulations to be prescribed by the supervisor by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies or insular possessions. Such drafts or bills may be acquired by banks in such amounts and subject to such regulations, restrictions and limitations as may be provided by the supervisor: PROVIDED, HOWEVER, That no bank shall accept such drafts or bills of exchange referred to in this subdivision for any one bank to an amount exceeding in the aggregate ten percent of the paid up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security, and that no such drafts or bills of exchange shall be accepted by any bank in an amount exceeding at any time the aggregate of one-half of its paid up and unimpaired capital and surplus: PROVIDED FURTHER, That compliance by any bank which is a member of the federal reserve system of the United States with the rules, regulations and limitations adopted by the federal reserve board thereof with respect to the acceptance of drafts or bills of exchange by members of such federal reserve system shall be a sufficient compliance with the requirements of this subdivision or paragraph relating to rules, regulations and limitations prescribed by the supervisor.

~~((12) This section is retroactive as of June 10, 1931, and the powers hereby conferred shall inure to the benefit of any bank now holding such certificate, the persons named in the articles of incorporation of said bank and their successors:))~~

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

(14) To serve as custodian of an individual retirement account and pension and profit sharing plans qualified under internal revenue code section 401(a), the assets of which are invested in deposits of the bank or trust company or are invested, pursuant to directions from the customer owning the account, in securities traded on a national securities market: PROVIDED, That the bank or trust company shall accept no investment responsibilities over the account unless it is granted trust powers by the supervisor.

(15) To be a limited partner in a limited partnership that engages in only such activities as are authorized for the bank.

Sec. 30. Section 30.12.010, chapter 33, Laws of 1955 as last amended by section 8, chapter 196, Laws of 1982 and RCW 30.12.010 are each amended to read as follows:

Every bank and trust company shall be managed by not less than five directors, ~~((excepting that a bank having a capital of fifty thousand dollars or less may have only three directors))~~ who need not be residents of this state. Directors shall be elected by the stockholders and hold office for ~~((one year))~~ such term as is specified in the articles of incorporation, not exceeding three years, and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the bank's or trust company's bylaws ~~((but not later than May 15th of each year))~~. Shareholders may not cumulate their votes unless the articles of incorporation specifically so provide. If for any cause no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each month and whenever required by the supervisor. A majority of the then serving board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy. ~~((Every director must own in his own right shares of the capital stock of the bank or trust company of which he is a director the aggregate par value of which shall not be less than four hundred dollars, unless the capital of the bank or trust company shall not exceed fifty thousand dollars, in which case he must own in his own right shares of such capital stock the aggregate par value of which shall not be less than two hundred dollars, or an equivalent interest, as determined by the supervisor of banking, in any company which has control over such bank or trust company within the meaning of section 2 of the federal bank holding company act of 1956, as now or hereafter amended. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.))~~

Immediately upon election, each director shall take, subscribe, swear to, and file with the supervisor an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation and will not knowingly violate or willingly permit to be violated any provision of law applicable to such corporation ~~((and that he is the beneficial owner in good faith of the number of shares of stock required by this section, and that the same is fully paid, is not hypothecated or in any way pledged as security for any loan or debt))~~. Vacancies in the board of directors shall be filled by the board.

Sec. 31. Section 30.12.020, chapter 33, Laws of 1955 as amended by section 9, chapter 136, Laws of 1969 and RCW 30.12.020 are each amended to read as follows:

All meetings of the stockholders of any bank or trust company, except organization meetings, and meetings held with the consent of all stockholders, must be held in the ~~((town or city))~~ county in which the head office or any branch of the corporation is located. Meetings of the directors of any bank or trust company may be held either within or without this state. Every such corporation shall keep ~~((a book))~~ records in which shall be recorded the names and residences of the stockholders thereof, the number of shares held by each, ~~((when each person became a stockholder))~~ and also the transfers of stock, showing the time when made, the number of shares and by whom transferred. In all actions, suits and proceedings, said ~~((book))~~ records shall be prima facie proof of the facts shown therein. All of the corporate books, including the certificate book, stockholders' ledger and minute book or a copy thereof shall be kept at the corporation's principal place of business ~~((and not elsewhere))~~. Any books, record, and minutes may be in written form or any other form capable of being converted to written form within a reasonable time.

~~((Whenever in the opinion of the supervisor the condition of any bank or trust company is such that any transfer of the capital stock of such bank or trust company would be detrimental to the interests of its depositors, the supervisor may, by written order served upon the directors of such bank or trust company, direct that no transfer of stock shall be made until further order of the supervisor.))~~

NEW SECTION. Sec. 32. A new section is added to chapter 30.12 RCW to read as follows:

Any person who has been a shareholder of record at least six months immediately preceding his or her demand or who is the holder of record of at least five percent of all the outstanding shares of a bank or trust company, upon written demand stating the purpose thereof, has the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, the bank or trust company's minutes of the proceedings of its shareholders, its shareholder records, and its existing publicly available records. The person is entitled to make extracts therefrom, except that the person is not entitled to view or make extracts of any portion of minutes that refer or relate to information which is confidential.

Any officer or agent who, or a bank or trust company that, refuses to allow any such shareholder or his or her agent or attorney, to examine and make extracts from its minutes of the proceedings of its shareholders, record of shareholders, or existing publicly available books and records, for any proper purpose, shall be liable to the shareholder for actual damages or other remedy afforded the shareholder by law.

It is a defense to any action for penalties under this section that the person suing therefor has, within two years: (1) Sold or offered for sale any list of shareholders for shares of such bank or trust company or any other bank or trust company; (2) aided or abetted any person in procuring any list

of shareholders for any such purpose; (3) improperly used any information secured through any prior examination of existing publicly available books and records, or minutes, or record of shareholders of such bank or trust company or any other bank or trust company; or (4) not acted in good faith or for a proper purpose in making his or her demand.

Nothing in this section impairs the power of any court of competent jurisdiction, upon proof by a shareholder of proper purpose, irrespective of the period of time during which the shareholder has been a shareholder of record, and irrespective of the number of shares held by him or her, to compel the production for examination by the shareholder of the existing publicly available books and records, minutes, and record of shareholders of a bank or trust company.

Upon the written request of any shareholder of a bank or trust company, the bank or trust company shall mail to the shareholder its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operations. As used in this section, "shareholder" includes the holder of voting trust certificates for shares.

Sec. 33. Section 30.12.030, chapter 33, Laws of 1955 and RCW 30-12.030 are each amended to read as follows:

(1) Except as otherwise permitted by the supervisor under specified terms and conditions, the board of directors of each bank and trust company shall direct and require good and sufficient surety company fidelity bonds issued by a company authorized to engage in the insurance business in the state of Washington on all active officers and employees, whether or not they draw salary or compensation, which bonds shall provide for indemnity to such bank or trust company, on account of any losses sustained by it as the result of any dishonest, fraudulent or criminal act or omission committed or omitted by them acting independently or in collusion or combination with any person or persons. Such bonds may be individual, schedule or blanket form, and the premiums therefor shall be paid by the bank or trust company.

(2) The said directors shall also direct and require suitable insurance protection to the bank or trust company against burglary, robbery, theft and other similar insurance hazards to which the bank or trust company may be exposed in the operations of its business on the premises or elsewhere.

The said directors shall be responsible for prescribing at least once in each year the amount or penal sum of such bonds or policies and the sureties or underwriters thereon, after giving due consideration to all known elements and factors constituting such risk or hazard. Such action shall be recorded in the minutes of the board of directors (~~and thereafter be reported to the supervisor and be subject to his approval~~).

Sec. 34. Section 30.12.050, chapter 33, Laws of 1955 and RCW 30-12.050 are each amended to read as follows:

A director, officer, employee or other agent of any bank shall not purchase, or be interested in the purchase, directly or indirectly, of any of its assets without the previous ~~((written))~~ consent of ~~((the supervisor and of))~~ a majority of ~~((the))~~ disinterested directors of the bank: PROVIDED, That if the fair market value of the asset or assets exceed ten thousand dollars, not less than ten days' prior notice of the sale shall be given to the supervisor. ~~((Whoever knowingly does or participates or aids in the doing of any act in violation of this section shall be guilty of a gross misdemeanor and be punished accordingly, and also shall forfeit to the state double the amount of any loss suffered by the bank or trust company on account of the unlawful purchase, the recovery to be one-half for the use of the bank or trust company and the rest for the use of the state.))~~

Sec. 35. Section 30.12.110, chapter 33, Laws of 1955 and RCW 30.12.110 are each amended to read as follows:

~~((Every))~~ No officer, director, agent, employee or stockholder of any bank or trust company ~~((who))~~ shall, directly or indirectly, receive a bonus, commission, compensation, remuneration, gift, speculative interest or gratuity of any kind from any person, firm or corporation other than the bank or as allowed by section 36 of this 1986 act for granting, procuring or endeavoring to procure, for any person, firm or corporation, any loan by or out of the funds of such bank or trust company or the purchase or sale of any securities or property for or on account of such bank or trust company or for granting or procuring permission for any person, firm or corporation to overdraw any account with such bank or trust company~~((;))~~. Any person violating this section shall be guilty of a ((felony)) gross misdemeanor.

NEW SECTION. Sec. 36. A new section is added to chapter 30.12 RCW to read as follows:

(1) If a transaction is fair to a corporation at the time it is authorized, approved, or ratified, the fact that a director or an officer had a direct or indirect interest in the transaction is not grounds for either invalidating the transaction or imposing liability on the director or officer.

(2) In any proceeding seeking to invalidate a transaction with the corporation in which a director or an officer had a direct or indirect interest in a transaction with the corporation, the person asserting the validity of the transaction has the burden of proving fairness unless:

(a) The material facts of the transaction and the director's or officer's interest was disclosed or known to the board of directors, or a committee of the board, and the board or committee authorized, approved, or ratified the transaction; or

(b) The material facts of the transaction and the director's or officer's interest was disclosed or known to the shareholders entitled to vote, and they authorized, approved, or ratified the transaction.

(3) For purposes of this section, a director or an officer of a corporation has an indirect interest in a transaction with the corporation if:

(a) Another entity in which the director or officer has a material financial interest, or in which such person is a general partner, is a party to the transaction; or

(b) Another entity of which the director or officer is a director, officer, or trustee is a party to the transaction, and the transaction is or should be considered by the board of directors of the corporation.

(4) For purposes of subsection (3)(a) of this section, a transaction is authorized, approved, or ratified only if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee who have no direct or indirect interest in the transaction. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (3)(a) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(5) For purposes of subsection (3)(b) of this section, a transaction is authorized, approved, or ratified only if it receives the vote of a majority of shares entitled to be counted under this subsection. All outstanding shares entitled to vote under this title or the articles of incorporation are entitled to be counted under this subsection except shares owned by or voted under the control of a director or an officer who has a direct or indirect interest in the transaction. Shares owned by or voted under the control of an entity described in subsection (3)(a) of this section shall not be counted to determine whether shareholders have authorized, approved, or ratified a transaction for purposes of subsection (3)(b) of this section. The vote of the shares owned by or voted under the control of a director or an officer who has a direct or indirect interest in the transaction and shares owned by or voted under the control of an entity described in subsection (3)(a) of this section, however, shall be counted in determining whether the transaction is approved under other sections of this title and for purposes of determining a quorum.

NEW SECTION. Sec. 37. A new section is added to chapter 30.12 RCW to read as follows:

Subject to any restrictions in its articles of incorporation and in accordance with and subject to the provisions of RCW 30.08.088, the board of directors of a bank or trust company may grant options entitling the holders thereof to purchase from the corporation shares of any class of its stock. The instrument evidencing the option shall state the terms upon which, the time within which, and the price at which such shares may be purchased from the corporation upon the exercise of such option. If any such options are granted by contract, or are to be granted pursuant to a plan, to officers or employees of the bank or trust company, then the contract or the plan

shall require the approval, within twelve months of its approval by the board of directors, of the holders of a majority of its voting capital stock. Subsequent amendments to any such contract or plan which do not change the price or duration of any option, the maximum number of shares which may be subject to options, or the class of employees eligible for options may be made by the board of directors without further shareholder approval.

Subject to any restrictions in its articles of incorporation, the board of directors of a bank or trust company shall have the authority to enter into any plans or contracts providing for compensation for its officers and employees, including, but not being limited to, incentive bonus contracts, stock purchase or bonus plans and profit sharing plans.

Sec. 38. Section 30.20.060, chapter 33, Laws of 1955 as last amended by section 3, chapter 280, Laws of 1961 and RCW 30.20.060 are each amended to read as follows:

~~((Any))~~ A bank or trust company ~~((which shall conduct a savings account department))~~ shall repay all deposits to the depositor or his lawful representative when required at such time or times and with such interest as the regulations of the corporation shall prescribe. Such regulations shall be prescribed by the directors of ~~((any such))~~ the bank or trust company and may contain provisions with respect to the terms and conditions upon which any ~~((such savings))~~ account or deposit will be maintained by said bank or trust company. Such regulations and any amendments thereto shall be posted in a conspicuous place in a room where the ~~((savings account))~~ deposit business of ~~((any such))~~ the bank or trust company shall be transacted and shall ~~((be))~~ remain available to depositors upon request. All such rules and regulations and all amendments thereto from time to time in effect shall be binding upon all depositors. At the option of the bank, a passbook shall be issued to each savings account depositor, or a ((ledger)) record maintained in lieu of a passbook~~((, covering such deposits in which shall be entered each deposit by and each payment to such depositor, and no payment or checks against any savings account shall be made unless accompanied by and entered in any passbook issued therefor, except for good cause and assurance satisfactory to the corporation. PROVIDED, HOWEVER, That in any event, a passbook shall be issued upon request))~~. A deposit contract may be adopted by the bank or trust company in lieu of or in addition to account rules and regulations and shall be enforceable and amendable in the same manner as provided herein for account rules and regulations or as provided in the deposit contract. A copy of such contract shall be provided to the depositor.

Sec. 39. Section 30.40.020, chapter 33, Laws of 1955 as last amended by section 2, chapter 73, Laws of 1981 and RCW 30.40.020 are each amended to read as follows:

A bank or trust company ~~((having a paid-in capital of not less than five hundred thousand dollars))~~ may, with the approval of the supervisor,

establish and operate branches ((in any city or town)) anywhere within the state. ((A bank or trust company having a paid-in capital of not less than two hundred thousand dollars may, with the approval of the supervisor, establish and operate branches within the limits of the county in which its principal place of business is located:)) A bank having a paid-in capital of not less than one million dollars may, with the approval of the supervisor, establish and operate branches in any foreign country. The supervisor's approval of a branch within this state shall be conditioned on a finding that the resources in the neighborhood of the proposed location and in the surrounding country offer a reasonable promise of adequate support for the proposed branch and that the proposed branch is not being formed for other than the legitimate objects covered by this title. The supervisor's approval of a branch in a foreign country shall be conditioned on a finding that the proposed location offers a reasonable promise of adequate support for the proposed branch, that the proposed branch is not being formed for other than the legitimate objects covered by this title((, and that the principal purpose for establishing such branch is to aid in financing or facilitating exports and/or imports and the exchange of commodities with any foreign country or the agencies or nationals thereof:

~~The aggregate paid-in capital stock of every bank or trust company operating branches shall at no time be less than the aggregate of the minimum capital required by law for the establishment of an equal number of banks or trust companies in the cities or towns wherein the principal office or place of business of such bank or trust company and its branches are located:~~

No bank or trust company shall establish or operate any branch, except a branch in a foreign country, in any city or town outside the city or town in which its principal place of business is located in which any bank, trust company or national banking association regularly transacts a banking or trust business, except by taking over or acquiring an existing bank, trust company or national banking association or the branch of any bank, trust company or national banking association operating in such city or town. However, on and after July 1, 1981, a bank or trust company having a paid-in capital of not less than five hundred thousand dollars may, with the approval of the supervisor, establish and operate branches within the limits of the county in which its principal place of business is located, including within any city or town, located in such county and whether or not an existing bank, trust company, or national banking association or branch thereof is operating in the city or town. On and after July 1, 1985, a bank or trust company having a paid-in capital of not less than five hundred thousand dollars may, with the approval of the supervisor, establish and operate a branch anywhere within the state, including within cities and towns where an existing bank, trust company, or national banking association or a branch thereof is operating)).

Sec. 40. Section 1, chapter 196, Laws of 1982 and RCW 30.04.550 are each amended to read as follows:

A state banking corporation may, with the approval of the supervisor of banking and the affirmative vote of the shareholders of such corporation owning at least two-thirds of ~~((its capital stock outstanding, reorganize))~~ each class of shares entitled to vote under the terms of such shares, be re-organized to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company, as defined in the federal bank holding company act of 1956, as amended.

Sec. 41. Section 2, chapter 196, Laws of 1982 and RCW 30.04.555 are each amended to read as follows:

A reorganization authorized under RCW 30.04.550 shall be carried out in the following manner:

(1) A plan of reorganization specifying the manner in which the reorganization shall be carried out must be approved by a majority of the entire board of directors of the banking corporation. The plan shall specify the name of the acquiring corporation, the amount of cash, securities of the bank holding company, other consideration, or any combination thereof to be paid to the shareholders of the reorganizing corporation in exchange for their shares of the stock of the corporation. The plan shall also specify the exchange date or the manner in which such exchange date shall be determined, the manner in which the exchange shall be carried out, and such other matters, not inconsistent with this chapter, as shall be determined by the board of directors of the corporation.

(2) The plan of reorganization shall be submitted to the shareholders of the reorganizing corporation at a meeting to be held on the call of the directors. Notice of the meeting of ~~((stockholders))~~ shareholders at which the plan shall be considered shall be given ~~((by publication in a newspaper of general circulation in the place where the principal office of each banking corporation is located at least once each week for four successive weeks, and))~~ by certified mail at least twenty days before the date of the meeting, to each stockholder of record of the banking corporation. The notice shall state that dissenting ~~((stockholders))~~ shareholders will be entitled to payment of the value of only those shares which are voted against approval of the plan.

Sec. 42. Section 3, chapter 196, Laws of 1982 and RCW 30.04.560 are each amended to read as follows:

If the shareholders approve the reorganization by a two-thirds vote of ~~((the capital stock outstanding))~~ each class of shares entitled to vote under the terms of such shares, and if it is thereafter approved by the supervisor and consummated, any shareholder of the banking corporation who has voted shares against such reorganization at such meeting or has given notice in writing at or prior to such meeting to the banking corporation that he or

she dissents from the plan of reorganization and has not voted in favor of the reorganization, shall be entitled to receive the value of the shares determined as provided in RCW 30.04.565. Such dissenter's rights must be exercised by making written demand which shall be delivered to the corporation at any time within thirty days after the date of shareholder approval, accompanied by the surrender of the appropriate stock certificates.

Sec. 43. Section 30.49.010, chapter 33, Laws of 1955 and RCW 30.49.010 are each amended to read as follows:

As used in this chapter:

"Merging bank" means a party to a merger;

"Converting bank" means a bank converting from a state to a national bank, or the reverse;

"Merger" includes consolidation;

"Resulting bank" means the bank resulting from a merger or conversion.

Wherever reference is made to a vote of stockholders or a vote of classes of stockholders it shall mean only a vote of those entitled to vote under the terms of such shares.

NEW SECTION. Sec. 44. Prior to the approval of the reorganization, the supervisor, upon request of the board of directors of the bank, or not less than ten percent of its shareholders, shall hold a public hearing at which bank shareholders and other interested parties may appear. Notice of the public hearing shall be sent to each shareholder and otherwise publicized in accordance with the administrative procedure act, chapter 34.04 RCW.

The approval of the reorganization by the supervisor of banking shall be conditioned on a finding that the terms of the reorganization are fair to the shareholders and other interested parties.

Sec. 45. Section 1, chapter 166, Laws of 1974 ex. sess. as amended by section 1, chapter 137, Laws of 1979 and RCW 30.43.010 are each amended to read as follows:

As used in this chapter the term "financial institution" means any bank or trust company established in this state pursuant to Title 12, United States Code, chapter 2, or Title 30 RCW, any mutual savings bank established in this state pursuant to Title 32 RCW, any savings and loan association established in this state pursuant to Title 12, United States Code, chapter 12, or Title 33 RCW, and any credit union established in this state pursuant to Title 12, United States Code, chapter 14 or chapters 31.12 and 31.13 RCW.

As used in this chapter, the term "supervisor" means, if applicable to banks, trust companies, or mutual savings banks, the supervisor of banking

and, if applicable to savings and loan associations and credit unions, the supervisor of savings and loan associations, or the National Credit Union Administration in the case of federally chartered credit unions.

As used in this chapter, the term "satellite facility" means an unmanned facility at which transactions, including, but not being limited to account transfers, payments, and instructions for deposits and withdrawals may be conducted and which is not a part of a branch or main office of the financial institution: PROVIDED, That such a facility shall not be construed to be the establishment of a branch: PROVIDED FURTHER, That ~~((in considering any application for authority to open a new branch or to establish a new financial institution, the supervisor shall disregard the existence of facilities established pursuant to this chapter in determining whether there is reasonable promise of adequate support for the new branch or proposed new financial institution:))~~ an unmanned facility which is connected to a dispenser of goods or services and that originates or communicates funds transfer instructions for the payment of such goods or services shall not be a "satellite facility."

NEW SECTION. Sec. 46. Any action required by this title to be taken at a meeting of the shareholders of a corporation, or any action that may be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the shareholders entitled to vote with respect to the subject matter thereof.

The consent shall have the same force and effect as a unanimous vote of shareholders and may be stated as such in any articles or documents filed under this title.

NEW SECTION. Sec. 47. Unless otherwise provided by the articles of incorporation or bylaws, any action required by this title to be taken at a meeting of the directors of a bank or trust company, or any action which may be taken at any meeting of the directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

NEW SECTION. Sec. 48. Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated by the board of directors may participate in a meeting of the board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence, in person, at a meeting.

Sec. 49. Section 30.49.040, chapter 33, Laws of 1955 as amended by section 9, chapter 196, Laws of 1982 and RCW 30.49.040 are each amended to read as follows:

This section is applicable where there is to be a resulting state bank, except in the case of reorganization and exchange as authorized by this title.

(1) The board of directors of each merging state bank shall, by a majority of the entire board, approve a merger agreement which shall contain:

(a) The name of each merging state or national bank and location of each office;

(b) With respect to the resulting state bank, (i) the name and location of the principal and other offices; (ii) the name and ((residence)) mailing address of each director to serve until the next annual meeting of the stockholders; (iii) the name and ((residence)) mailing address of each officer; (iv) the amount of capital, the number of shares and the par value, if any, of each share; and (v) the amendments to its charters and bylaws;

(c) Provisions governing the exchange of shares of the merging state or national banks for such consideration as has been agreed to in the merger agreement;

(d) A statement that the agreement is subject to approval by the supervisor of banking and the stockholders of each merging state or national bank;

(e) Provisions governing the manner of disposing of the shares of the resulting state bank if such shares are to be issued in the transaction and are not taken by dissenting shareholders of merging state or national banks;

(f) Such other provisions as the supervisor of banking requires to discharge his or her duties with respect to the merger;

(2) After approval by the board of directors of each merging state bank, the merger agreement shall be submitted to the supervisor of banking for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any merging national bank;

(3) Within sixty days after receipt by the supervisor of banking of the papers specified in subsection (2) of this section, the supervisor of banking shall approve or disapprove of the merger agreement, and if no action is taken, the agreement shall be deemed approved. The supervisor of banking shall approve the agreement if it appears that:

(a) The resulting state bank meets the requirements of state law as to the formation of a new state bank;

(b) The agreement provides an adequate capital structure including surplus in relation to the deposit liabilities of the resulting state bank and its other activities which are to continue or are to be undertaken;

(c) The agreement is fair;

(d) The merger is not contrary to the public interest.

If the supervisor of banking disapproves an agreement, he or she shall state his or her objections and give an opportunity to the merging state or national banks to amend the merger agreement to obviate such objections.

NEW SECTION. Sec. 50. A new section is added to chapter 30.12 RCW to read as follows:

The shareholders of a banking corporation organized under the laws of this state and the deposits of which are insured by the federal deposit insurance corporation shall not be liable for any debts or obligations of the bank.

NEW SECTION. Sec. 51. The following acts or parts of acts are each repealed:

(1) Section 30.04.040, chapter 33, Laws of 1955, section 79, chapter 81, Laws of 1971 and RCW 30.04.040;

(2) Section 30.04.100, chapter 33, Laws of 1955 and RCW 30.04.100;

(3) Section 30.04.110, chapter 33, Laws of 1955, section 1, chapter 136, Laws of 1969, section 4, chapter 157, Laws of 1983 and RCW 30.04-.110;

(4) Section 1, chapter 302, Laws of 1955 and RCW 30.04.122;

(5) Section 2, chapter 302, Laws of 1955 and RCW 30.04.124;

(6) Section 1, chapter 185, Laws of 1959, section 1, chapter 124, Laws of 1979 and RCW 30.04.126;

(7) Section 2, chapter 194, Laws of 1963, section 5, chapter 157, Laws of 1983 and RCW 30.04.128;

(8) Section 30.04.160, chapter 33, Laws of 1955, section 7, chapter 157, Laws of 1983, section 97, chapter 7, Laws of 1985 and RCW 30.04-.160;

(9) Section 30.04.170, chapter 33, Laws of 1955 and RCW 30.04.170;

(10) Section 30.04.190, chapter 33, Laws of 1955 and RCW 30.04-.190;

(11) Section 2, chapter 356, Laws of 1955 and RCW 30.04.340;

(12) Section 3, chapter 356, Laws of 1955 and RCW 30.04.350;

(13) Section 4, chapter 356, Laws of 1955 and RCW 30.04.360;

(14) Section 30.12.080, chapter 33, Laws of 1955, section 3, chapter 106, Laws of 1959, section 5, chapter 140, Laws of 1965, section 3, chapter 106, Laws of 1979 and RCW 30.12.080;

(15) Section 30.12.140, chapter 33, Laws of 1955 and RCW 30.12-.140;

(16) Section 30.12.150, chapter 33, Laws of 1955 and RCW 30.12-.150;

(17) Section 30.12.160, chapter 33, Laws of 1955 and RCW 30.12-.160;

(18) Section 30.12.170, chapter 33, Laws of 1955 and RCW 30.12-.170;

(19) Section 30.12.200, chapter 33, Laws of 1955, section 1, chapter 296, Laws of 1955 and RCW 30.12.200;

(20) Section 4, chapter 140, Laws of 1965, section 4, chapter 106, Laws of 1979 and RCW 30.12.210;

(21) Section 30.20.070, chapter 33, Laws of 1955 and RCW 30.20-.070;

(22) Section 30.20.080, chapter 33, Laws of 1955 and RCW 30.20-.080; and

(23) Section 7, chapter 106, Laws of 1979, section 1, chapter 9, Laws of 1980 and RCW 30.40.060.

NEW SECTION. Sec. 52. Sections 3, 5, 16, 44, and 46 through 48 of this act are each added to chapter 30.04 RCW.

NEW SECTION. Sec. 53. Financial institutions have been subjected to significant changes in the recent past. Regulated financial institutions have come under pressure from nonregulated financial institutions for markets that were formerly the sole province of the regulated institutions. The legislature has been repeatedly asked to expand the powers of regulated institutions so they may compete on an equal basis. It is the intent of the legislature, in enacting section 54 of this act, to develop the information with which it can respond to requests from financial institutions for new powers.

NEW SECTION. Sec. 54. A new section is added to chapter 30.04 RCW to read as follows:

(1) The supervisor of banking shall study the financial institution structure in the state and report to the governor and the appropriate standing committees of the house of representatives and the senate on changes which should be made to enable commercial banks to remain safe and sound and yet be competitive with other financial institutions. In conducting the study the supervisor shall consider:

(a) The powers which commercial banks under state regulatory authority should be entitled to exercise;

(b) The level of supervision that is necessary to assure safe and sound commercial banks without unnecessarily restricting the operation of the institutions;

(c) Whether the distinction between commercial banks, savings banks, and savings and loan associations should be retained, and if so, whether there should continue to be differences in their powers;

(d) The general corporate powers that should be authorized for banking corporations; and

(e) Any other matters deemed by the supervisor to be relevant.

(2) The supervisor, in conducting the study required by subsection (1) of this section shall consult with the supervisor of savings and loans and with representatives from all types of financial institutions, including large and small, urban and rural, commercial banks, savings banks, and savings

and loan associations. The supervisor shall also advise the appropriate standing committees of the house of representatives and the senate of all meetings held to consider the study conducted under this section.

(3) The supervisor of banking shall submit the report required by subsection (1) of this section not later than November 1, 1987. A progress report shall be submitted to the governor and the respective standing committees of the house of representatives and the senate not later than December 1, 1986.

****NEW SECTION. Sec. 55. It is the intent of the legislature to provide to the public current information on the condition of financial institutions conducting business in the state of Washington.***

*Sec. 55 was vetoed, see message at end of chapter.

****NEW SECTION. Sec. 56. A new section is added to chapter 43.19 RCW to read as follows:***

The director of general administration shall annually, or by request, make available to the legislature the list of financial institutions designated by the federal reserve system or by the comptroller of the currency, known as the "watch list."

*Sec. 56 was vetoed, see message at end of chapter.

****NEW SECTION. Sec. 57. Sections 55 and 56 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.***

*Sec. 57 was vetoed, see message at end of chapter.

Passed the Senate March 12, 1986.

Passed the House March 12, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to sections 55, 56 and 57, Engrossed Substitute Senate Bill No. 4917, entitled:

"AN ACT Relating to banks and trust companies."

Engrossed Substitute Senate Bill No. 4917 makes certain necessary modernization and housekeeping amendments to Title 30, RCW, dealing with commercial banks. It enables the state's banking code to keep pace with a rapidly changing banking environment.

While I support the intent and main substance of Engrossed Substitute Senate Bill 4917, I must take exception to sections 55, 56 and 57. These sections would require the Department of General Administration's Division of Banking to provide the Legislature with a listing of financial institutions that are designated on a "watch list" by either the Federal Reserve System or the U.S. Comptroller of the Currency.

These provisions are imprudent and their enactment would have a substantially adverse effect on the Division of Banking's ability to supervise the banks that are subject to its jurisdiction and could cause significant harm to individual institutions.

First of all, according to the state Division of Banking, neither the Federal Reserve System nor the Comptroller of the Currency maintains anything call a "watch list" as referenced in section 56. The various regulatory agencies differentiate the degree of supervisory concern among the banks they supervise based on a number of factors. Thus, the federal information referenced as a "watch list" is ambiguous.

Moreover, proposed sections 55, 56 and 57 would undercut the essential cooperation needed between federal and state bank regulatory agencies with the onset of interstate banking and a rapidly-changing banking industry. The state's Division of Banking relies on the information it receives from the federal regulatory agencies on the basis of strict confidentiality. Without this confidentiality, which would be the effect of proposed sections 55, 56 and 57, the federal agencies would undoubtedly stop sharing bank regulatory information with the state.

Finally, one of the goals of our bank regulatory system is to closely supervise those institutions that are experiencing difficulty in order to restore their soundness and avert their closure. To make public any listing of financial institutions which may be experiencing difficulties would greatly, and perhaps needlessly, undermine public confidence in those institutions. Such an erosion of public confidence would undoubtedly cause some depositors to withdraw their funds, thereby exacerbating the bank's difficulties. This would be an unintended effect of sections 55, 56 and 57.

Therefore, with the exception of sections 55, 56 and 57, Engrossed Substitute Senate Bill No. 4917 is approved."

CHAPTER 280

[Senate Bill No. 4675]

CENTENNIAL LICENSE PLATES

AN ACT Relating to motor vehicle license plates; amending RCW 46.16.270; adding a new section to chapter 27.60 RCW; adding a new section to chapter 46.16 RCW; and repealing RCW 46.16.275.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.16 RCW to read as follows:

In order to help publicize and commemorate the state's 1989 anniversary celebration of its admission to the Union, a new centennial design shall be developed by the department for vehicle license plates that uses reflectorized materials necessary to provide adequate visibility and legibility at night.

The centennial plates shall be developed in cooperation with the design selection committee appointed by the director. The committee shall include representation from the Washington centennial commission.

Registration numbers and letters for the centennial plate shall be assigned by the department in accordance with established procedures. Distribution of the centennial license plates shall commence January 1, 1987, to all new vehicle registrations and license plate replacements. In addition, the centennial plate shall be available for purchase by all other vehicle owners at the owner's option.

Revenues generated from the centennial plate shall go in part to support local and state centennial activities as provided in section 2 of this act.

In addition to the basic fees for new vehicle registrations provided in RCW 46.16.060, persons purchasing centennial plates shall pay an additional fee of one dollar per plate to be distributed as follows: From January 1, 1987, through June 30, 1989, one-half of the fee shall be deposited in the centennial commission account of the general fund, and the remainder shall be deposited in the motor vehicle fund. Commencing July 1, 1989, the total one dollar per plate fee shall be deposited in the motor vehicle fund.

***NEW SECTION.** Sec. 2. A fleet shall qualify for centennial plates to be issued in consecutive order if available. *A fleet shall be defined for purposes of the RCW as a group of five vehicles or more registered in the same name and whose owner has been assigned a fleet identifier code by the department of licensing.*

*Sec. 2 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 27.60 RCW to read as follows:

In support of centennial activities of the centennial commission, and as provided for in section 1 of this act, revenues shall be made available by appropriation to the centennial commission. One-half of the moneys so provided shall be distributed to counties in the state for use by their respective county centennial commissions or committees. Distribution of such moneys shall be made by the 1989 Washington centennial commission according to rules adopted by the commission. The rules shall provide for distribution to the respective counties on the basis of the number of centennial plates issued to residents in those counties, with minimum amounts established to be distributed to those counties with small populations, regardless of the number of centennial plates issued.

The remaining one-half of the moneys shall be used for funding projects deemed to be of state-wide significance by the centennial commission in accordance with rules adopted by the commission.

This section shall expire on December 31, 1993. Any funds remaining in the centennial commission account on that date shall revert to the general fund.

Sec. 4. Section 46.16.270, chapter 12, Laws of 1961 as last amended by section 7, chapter 169, Laws of 1975 1st ex. sess. and RCW 46.16.270 are each amended to read as follows:

Upon the loss, defacement, or destruction of one or both of the vehicle license number plates issued for any vehicle where more than one plate was originally issued or where one or both have become so illegible or in such a condition as to be difficult to distinguish, or upon the owner's option, the owner of the vehicle shall make application for new vehicle license number plates upon a form furnished by the director, upon which form it shall be required that the owner, if appropriate and in addition to other requirements, make a complete statement as to the cause of the loss, defacement,

or destruction of the original plate or plates, which statement shall be subscribed and sworn to before a notary public or other person authorized to certify to statements upon vehicle license applications. Such application shall be filed with the director or ~~((his))~~ the director's authorized agent, accompanied by the certificate of license registration of the vehicle and a fee in the amount of ~~((four))~~ three dollars per plate, whereupon the director, or ~~((his))~~ the director's authorized agent, shall issue new vehicle license number plates to the applicant. It shall be accompanied by a fee of two dollars ~~((for a new vehicle license number plate where only one was originally issued and one dollar))~~ for a new motorcycle license number plate. In the event the director has issued license period tabs or a windshield emblem instead of vehicle license number plates, and upon the loss, defacement, or destruction of ~~((said))~~ the tabs or windshield emblem, application shall be made on a form provided by the director and in the same manner as above described, and shall be accompanied by a fee of one dollar for each pair of tabs or for each windshield emblem, whereupon the director shall issue to the applicant a duplicate pair of tabs or a windshield emblem to replace those lost, defaced, or destroyed ~~((:PROVIDED, That))~~. For those vehicles owned, rented, or leased by the state of Washington or by any county, city, town, school district, or other political subdivision of the state of Washington or United States government, a fee shall be charged for replacement of a vehicle license number plate only to the extent required by the provisions of RCW 46.16.020, 46.16.061, 46.16.237, and 46.01.140 ~~((:PROVIDED FURTHER, That))~~. For those vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty, the payment of any fee for the replacement of a vehicle license number plate shall not be required.

NEW SECTION, Sec. 5. Section 1, chapter 72, Laws of 1983, section 1, chapter 62, Laws of 1984 and RCW 46.16.275 are each repealed.

Passed the Senate March 9, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

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

"I am returning herewith, without my approval as to the second sentence of section 2, Senate Bill No. 4675, entitled:

"AN ACT Relating to motor vehicle license plates."

Senate Bill No. 4675 would authorize the Director of the Department of Licensing to develop and issue a new centennial motor vehicle plate.

Section 2 permits a fleet of motor vehicles to apply for consecutive centennial license plates if they are available. The second sentence of this section defines a fleet of motor vehicles as a group of five or more vehicles registered in the same name and whose owner has been assigned a fleet identifier code by the Department. Currently, a fleet is defined as fifteen or more vehicles by administrative rule. Decreasing the

number of vehicles in a fleet will create a significantly increased workload for the Department and the County Auditors, particularly because all fleet vehicles must be registered in December of each year and no funds were provided for the increased workload.

With the exception of the second sentence of section 2, Senate Bill No. 4675 is approved."

CHAPTER 281

[Engrossed House Bill No. 134]

COMMERCIAL TELEPHONE SOLICITATION VIA AUTOMATIC DIALING AND ANNOUNCING DEVICES PROHIBITED

AN ACT Relating to automatic dialing and announcing devices; adding a new section to chapter 80.36 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that the use of automatic dialing and announcing devices for purposes of commercial solicitation: (1) Deprives consumers of the opportunity to immediately question a seller about the veracity of their claims; (2) subjects consumers to unwarranted invasions of their privacy; and (3) encourages inefficient and potentially harmful use of the telephone network. The legislature further finds that it is in the public interest to prohibit the use of automatic dialing and announcing devices for purposes of commercial solicitation.

NEW SECTION. Sec. 2. A new section is added to chapter 80.36 RCW to read as follows:

(1) As used in this section:

(a) An automatic dialing and announcing device is a device which automatically dials telephone numbers and plays a recorded message once a connection is made.

(b) Commercial solicitation means the unsolicited initiation of a telephone conversation for the purpose of encouraging a person to purchase property, goods, or services.

(2) No person may use an automatic dialing and announcing device for purposes of commercial solicitation. This section applies to all commercial solicitation intended to be received by telephone customers within the state.

(3) A violation of this section is a violation of chapter 19.86 RCW. It shall be presumed that damages to the recipient of commercial solicitations made using an automatic dialing and announcing device are five hundred dollars.

(4) Nothing in this section shall be construed to prevent the Washington utilities and transportation commission from adopting additional rules regulating automatic dialing and announcing devices.

Passed the House March 8, 1986.

Passed the Senate March 1, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 282

[Engrossed Substitute House Bill No. 1447]

PUBLIC WORKS CONTRACTS—SMALL WORKS ROSTER—ESTIMATES—
BUDGETING, ACCOUNTING, AND REPORTING—TAX ON REFUSE
COLLECTION BUSINESSES—SOLID WASTE HANDLING

AN ACT Relating to public works contracts; amending RCW 39.04.010, 39.04.020, 39.04.050, 39.04.070, 82.16.020, 35.21.120, and 36.58.040; adding a new section to chapter 35.92 RCW; adding a new section to chapter 36.58 RCW; adding a new chapter to Title 82 RCW; creating new sections; repealing RCW 39.04.090; and prescribing penalties.

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

Sec. 1. Section 1, chapter 183, Laws of 1923 as last amended by section 1, chapter 98, Laws of 1982 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, and 57.08.050 need not be advertised.

~~((Cost of superintendence, engineering, clerical and accounting service shall include all expenditures specially incurred for such service, and shall include a proportionate charge for the time of all salaried officers, engineers, clerks, accountants and employees of the state or municipality while engaged in such work or in keeping or preparing the estimates, accounts and records thereof.))~~

Sec. 2. Section 2, chapter 183, Laws of 1923 as last amended by section 4, chapter 98, Laws of 1982 and RCW 39.04.020 are each amended to read as follows:

Whenever the state, or any municipality shall determine that any public work is necessary to be done it shall cause plans ~~((and/or))~~, specifications, or both thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board or agency having by law the authority to require such work to be done. The plans, specifications, and estimates of cost shall be approved by the director, supervisor, commissioner, trustee, board, or agency and the original draft or a certified copy filed in such office before further action is taken.

If the state, or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract or by a small works roster process, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of ~~((twenty-five hundred dollars, or twenty-five thousand dollars if such work is let from a small works roster created pursuant to RCW 39-04.150))~~ fifteen thousand dollars, then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be done: PROVIDED, That when any emergency shall require the immediate execution of such public work, upon a 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.

Sec. 3. Section 4, chapter 183, Laws of 1923 and RCW 39.04.050 are each amended to read as follows:

Original estimates shall show in detail the estimated cost of the work; the estimated quantities of each class of work; the estimated unit cost for each class; the estimated total cost for each class; the time limit, allowed for the completion of the work and the estimated dates of commencement and completion. ~~((Such estimates shall show in detail the estimated total cost of~~

~~labor, material, provisions, supplies, equipment rentals, equipment purchases, industrial insurance and medical aid, superintendence, engineering, clerical and accounting service, the value of the use of equipment owned by the state or such municipality and other estimated expenses in the execution of such work:))~~

Sec. 4. Section 6, chapter 183, Laws of 1923 and RCW 39.04.070 are each amended to read as follows:

Whenever the state or any municipality shall execute any public work by any means or method other than by contract or small works roster, it shall cause to be kept and preserved a full, true and accurate account and record of the costs of executing such work in accordance with the budgeting, accounting, and reporting system provisions prescribed by law for the state agency or municipality.

~~((Such account and record shall show in accurately tabulated form and under appropriate headings the totals of all classes and kinds of work performed, the total cost and unit cost of each class, together with the costs of executing such work, including, under separate headings, the costs of labor; material; equipment purchased; provisions and supplies; rental of equipment; industrial insurance and medical aid; superintendence; engineering; clerical and accounting service; the reasonable value, including depreciation, of the use of equipment owned by the state or municipality; and all other expenses incurred therein.))~~

NEW SECTION. Sec. 5. Section 8, chapter 183, Laws of 1923 and RCW 39.04.090 are each repealed.

NEW SECTION. Sec. 6. For purposes of this chapter:

(1) "Refuse collection business" means every person who receives 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) "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 collection tax is imposed.

NEW SECTION. Sec. 7. There is imposed on each person using the services of a refuse collection business a refuse collection tax equal to three and six-tenths percent of the consideration charged for the services.

NEW SECTION. Sec. 8. The person collecting the charges made for using the refuse collection business shall collect the tax imposed in section 6 of this act. 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.

NEW SECTION. Sec. 9. Taxes collected under this chapter shall be held in trust until paid to the state. 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 collection tax and this tax shall have priority over all other claims to the amount remitted.

NEW SECTION. Sec. 10. The refuse collection tax shall not apply to any agency, division, or branch of the federal government or to services rendered under a contract therewith.

NEW SECTION. Sec. 11. To prevent pyramiding and multiple taxation of a single transaction, this tax shall not apply to any refuse collection business using the services of another refuse collection business for the transfer, storage, 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 collection business.

NEW SECTION. Sec. 12. Chapter 82.32 RCW applies to the tax imposed under this chapter.

NEW SECTION. Sec. 13. The department of revenue shall have the power to enforce the tax imposed in this chapter through appropriate rules.

Sec. 14. Section 82.16.020, chapter 15, Laws of 1961 as last amended by section 10, chapter 471, Laws of 1985 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) Gas distribution business: Three and six-tenths percent;

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

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

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

(f) Water distribution ((and refuse collection)) business(es): 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(~~(, seventy percent of the moneys collected under subsection (1) of this section on refuse collection 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.

NEW SECTION. Sec. 15. Sections 6 through 13 of this act shall constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 16. The legislature finds that the regulation, management, and disposal of solid waste through waste reduction, recycling, and the use of resource recovery facilities of the kind described in RCW 35.92.022 and 36.58.040 should be conducted in a manner substantially consistent with the priorities and policies of the Solid Waste Management Act, chapter 70.95 RCW. Nothing contained in sections 17 through 20 of this act shall detract from the powers, duties, and functions given to the utilities and transportation commission in chapter 81.77 RCW.

NEW SECTION. Sec. 17. A new section is added to chapter 35.92 RCW to read as follows:

(1) Notwithstanding the charter of any city, 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 systems and plants 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.

(2) The legislative authority shall publish notice of its requirements and request submission of qualifications for the design, construction, and operation of solid waste handling systems and plants. 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. The notice shall (a) state in summary form, the general scope and nature of the system and plant or work for which the services are required, (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.

(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, it may designate a representative to evaluate the vendors who submitted qualifications and conduct discussions regarding proposals with one or more vendors. 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 initially determined to be the best qualified to provide one or more of the services required for the proposed project. If two or more vendors submit qualifications, at least two vendors shall be interviewed. One or more vendors may be selected to provide services. The legislative authority or its representative shall attempt to negotiate a contract with the first vendor selected for one or more of the construction, design, or operation portions of the proposed project at a price and 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 act, 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 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 shall be formally terminated and other 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 in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

(4) Prior to entering into such a contract with a vendor, the legislative authority of the city or town must have made 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 advantageous compared to other methods.

(5) Each contract shall include project performance bonds or other security by the vendor which in the judgment of the legislative authority of the city or town is sufficient to secure adequate performance by the vendor.

(6) 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.

Sec. 18. Section 35.21.120, chapter 7, Laws of 1965 and RCW 35.21.120 are each amended to read as follows:

Every city (~~and~~) or town may by ordinance provide for the establishment of a system of garbage collection and disposal for the entire city or town or for portions thereof, and award contracts for garbage 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 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 contract 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.

NEW SECTION. Sec. 19. A new section is added to chapter 36.58 RCW to read as follows:

(1) Notwithstanding the charter of any county, 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 systems and plants 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. 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.

(2) The legislative authority shall publish notice of its requirements and request submission of qualifications for the design, construction, and operation of solid waste handling systems and plants. 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. 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, (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.

(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, it may designate a representative to evaluate the vendors who submitted qualifications and conduct discussions regarding proposals with one or more vendors. 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 initially determined to be the best qualified to provide one or more of the services required for the proposed project. If two or more vendors submit qualifications, at least two vendors shall be interviewed. One or more vendors may be interviewed and selected to provide services. The legislative authority or its representative shall attempt to negotiate a contract with the first vendor selected for one or more of the construction, design, or operation portions of the proposed project at a price and 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 act, 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 selected on terms that it determines to be fair and reasonable and in the best interest of the county, negotiations with that vendor shall be formally terminated and other vendors may be selected in accordance with the procedures set forth above. If the legislative authority decides to continue the process of selection, negotiations shall continue in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

(4) Prior to entering into such a contract with a vendor, the legislative authority of the county must have made 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 advantageous compared to other methods.

(5) Each contract shall include project performance bonds or other security by the vendor which in the judgment of the legislative authority of the county is sufficient to secure adequate performance by the vendor.

(6) 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.

Sec. 20. Section 2, chapter 58, Laws of 1975-'76 2nd ex. sess. 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.

Nothing in this section shall be construed to authorize the operation of a solid waste collection system by counties.

NEW SECTION. Sec. 21. Sections 16 through 20 of this act, being necessary for the health and welfare of the state and its inhabitants, shall be liberally construed to effect its purposes. Sections 16 through 20 of this act shall be deemed to provide an alternative method for the performance of those subjects authorized by these sections and shall be regarded as supplemental and additional to powers conferred by the Washington state Constitution, other state laws, and the charter of any city or county.

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.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 283

[Engrossed Substitute House Bill No. 1870]

CHARTER AND TOUR OPERATORS

AN ACT Relating to charter and tour operators; adding a new chapter to Title 19 RCW; providing an effective date; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds and declares that advertising, sales, and business practices of certain travel charter or tour operators have worked financial hardship upon the people of this state; that the travel business has a significant impact upon the economy and well-being of this state and its people; that problems have arisen regarding certain segments of the travel charter or tour operator business; and that the public welfare requires regulation of travel charter or tour operators in order to eliminate unfair advertising, sales and business practices. The legislature further finds it necessary to establish standards that will safeguard the people against financial hardship and to encourage fair dealing and prosperity in the travel business.

NEW SECTION. Sec. 2. (1) "Travel charter or tour operator" means a person who sells, provides, furnishes, contracts for, arranges, or advertises in this state that he or she can or may arrange, or has arranged air, sea, or land transportation either separately or in conjunction with other services. "Travel charter or tour operator" does not include:

- (a) An air carrier;
- (b) An ocean carrier;
- (c) A motor carrier;
- (d) A rail carrier;
- (e) A charter party carrier;
- (f) An auto transportation carrier;
- (g) A person who operates a travel agency business and meets standards no less than those required on the effective date of this act for authorized agents of the airline reporting corporation;
- (h) A person who:
 - (i) Has operated a travel tour or charter business for at least three years under the same ownership or management;

(ii) Has total annual revenue, not including airline transportation fares, of at least five hundred thousand dollars;

(iii) Has a certificate of insurance issued by a company authorized to conduct an insurance business under the laws of any state for at least one million dollars for errors and omissions; and

(iv) Has in effect a surety bond for at least one hundred thousand dollars to the benefit of any consumer who has made payment to the person operating the travel tour or charter business; or

(i) A person who sells membership in an organization, club, or association that entitles the purchaser to obtain transportation or other services from a travel charter or tour operator and who does not arrange or provide for transportation.

(2) "Advertise" means to make any representation in conjunction with, or to effect the sale of, travel services and includes communication with other members of the same partnership, corporation, joint venture, association, organization, group or other entity.

(3) "Passenger" is a person who purchases travel arrangements in Washington state and on whose behalf money or other consideration has been given or is to be given to another, including another member of the same partnership, corporation, joint venture, association, organization, group or other entity, for procuring transportation or other travel services.

(4) "Adequate bond" means a bond executed by an authorized surety insurer in an amount not less than fifty thousand dollars or an amount equal to ten percent of the total revenue of the two highest consecutive months for the travel charter or tour operator's business during the prior calendar year, whichever is greater, but in no case, more than five hundred thousand dollars, for the benefit of every person for whom services have not been delivered by the wrongful act of the principal acting in the course and scope of his or her occupation or business or by any official, agent, or employee of the principal acting in the course or scope of his or her employment or agency.

NEW SECTION. Sec. 3. A travel charter or tour operator shall not advertise that air, sea, or land transportation either separately or in conjunction with other services is or may be available unless he or she has, prior to such advertisement, received written confirmation with a carrier for the transportation advertised.

NEW SECTION. Sec. 4. At or prior to the time of full or partial payment for air, sea, or land transportation or any other services offered by the travel charter or tour operator in conjunction with such transportation, the travel charter or tour operator shall furnish to the person making the payment a written statement conspicuously setting forth the following information:

(1) The name and business address and telephone number of the travel charter or tour operator.

(2) The amount paid, the date of such payment, the purpose of the payment made, and an itemized statement of the balance due, if any.

(3) The location and number of the trust account or bond required by this statute.

(4) The name of the carrier with whom the travel charter or tour operator has contracted to provide the transportation, the type of equipment contracted, and the date, time, and place of each departure: PROVIDED, That the information required in this subsection may be provided at the time of final payment.

(5) The conditions, if any, upon which the contract between the travel charter or tour operator and the passenger may be canceled, and the rights and obligations of all parties in the event of such cancellation.

(6) A statement in eight-point boldface type in substantially the following form:

"If transportation or other services are canceled by the travel charter or tour operator, all sums paid to the travel charter or tour operator for services not performed in accordance with the contract between the travel charter or tour operator and the passenger will be refunded within fourteen days after the cancellation by the travel charter or tour operator to the passenger or the party who contracted for the passenger unless mutually acceptable alternative travel arrangements are provided."

NEW SECTION. Sec. 5. (1) If the transportation or other services contracted for are canceled the travel charter or tour operator shall return to the passenger within fourteen days after the cancellation all moneys paid for services not performed in accordance with the contract unless mutually acceptable alternative travel arrangements are provided.

(2) Any material misrepresentation with regard to the transportation and other services offered shall be deemed to be a cancellation necessitating the refund required by this section.

NEW SECTION. Sec. 6. (1) Except as otherwise provided in subsection (3) of this section, a travel charter or tour operator shall deposit ninety percent of all sums received for transportation or any other services offered by the travel charter or tour operator in conjunction with such transportation in a trust account in a federally insured financial institution.

(2) The trust account required by this section shall be created and maintained for the benefit of the passengers paying money to the travel charter or tour operator. The travel charter or tour operator shall not in any manner encumber the corpus of the account and shall not withdraw money therefrom except: (a) In an amount equal to partial or full payment for the services contracted for the passengers to the carrier or person providing the other services offered by the travel charter or tour operator; or (b) to make the refunds as required by section 5 of this act or as provided for by written contract between the travel charter and tour operator and passengers. A

travel charter and tour operator may withdraw from the account any interest earned and credited to the trust account for the sole benefit of the travel charter and tour operator after all services have been provided as contracted.

(3) A travel charter and tour operator, instead of maintaining a trust account as provided in subsections (1) and (2) of this section, may maintain an adequate bond.

(4) A violation of any provision of this section shall constitute a gross misdemeanor punishable under RCW 9A.20.021(2).

NEW SECTION. Sec. 7. A travel charter or tour operator is not required to comply with section 6 of this act if a written agreement exists between the travel charter or tour operator and a person who meets the requirements of section 2(1)(h) of this act to provide full service in the event the travel charter or tour operator defaults in providing services to passengers, and the travel charter or tour operator states the existence of this agreement in all of its promotional brochures. Any misleading statement is a violation of this section, and shall constitute a gross misdemeanor punishable under RCW 9A.20.021(2).

NEW SECTION. Sec. 8. A violation of sections 3 through 7 of this act shall constitute a violation of RCW 19.86.020.

NEW SECTION. Sec. 9. This chapter does not apply to the sale of public transportation by a public charter operator who is complying with regulations of the United States department of transportation.

NEW SECTION. Sec. 10. Sections 1 through 9 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. This act shall take effect January 1, 1987.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 284

[House Bill No. 1899]

STATE LAND BANK

AN ACT Relating to a state land bank; amending RCW 30.04.020; adding a new chapter to Title 31 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The director of general administration, by rule, shall provide for the establishment, incorporation, operation, and regulation of a borrower-owned corporate entity to be known as the Washington land bank. The Washington land bank shall be patterned after the federal land banks organized under the Farm Credit Act of 1971, as amended, within state constitutional limits. The Washington land bank shall be organized by eligible borrowers and shall be designed to accomplish the objective of furnishing sound, adequate, and constructive long-term credit to farmer and rancher borrowers in the state of Washington. For purposes of this chapter, "farmer and rancher" includes producers of privately cultured aquatic products.

NEW SECTION. Sec. 2. The Washington land bank shall be a body corporate and, subject to regulation as provided by rules promulgated by the director of general administration, shall have the power to:

- (1) Adopt and use a corporate seal.
- (2) Have succession until dissolved under this chapter or rules promulgated pursuant to section 1 of this act.
- (3) Make contracts.
- (4) Sue and be sued.
- (5) Acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business.
- (6) Make and participate in loans, make commitments for credit, accept advance payments, and provide services and other assistance as authorized in this chapter, and charge fees therefor.
- (7) Operate under the direction of its board of directors.
- (8) Elect by its board of directors a president, any vice-president, a secretary, and a treasurer, and provide for such other officers, employees, and agents as may be necessary, define their duties, and require surety bonds or make other provision against losses occasioned by employees.
- (9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, and agents are elected or provided for; its property acquired, held, and transferred; its loans and appraisals made; its general business conducted; and the privileges granted it by law exercised and enjoyed.
- (10) Borrow money and issue notes, bonds, debentures, or other obligations of such character, terms, conditions, and rates of interest as may be determined.
- (11) Participate with one or more other lenders, including federal land banks existing under the Farm Credit Act of 1971, as amended, in loans that the corporation is authorized to make under this chapter.

(12) Deposit its securities and its current funds with any member bank of the federal reserve system or any insured state nonmember bank as defined in section 2 of the Federal Deposit Insurance Act and pay fees therefor and receive interest thereon as may be agreed.

(13) Buy and sell obligations of or insured by the United States or of any agency thereof, and, as may be authorized by its board of directors and by rule promulgated pursuant to section 1 of this act, (a) sell to other lenders interests in loans, (b) buy from other lenders interests in loans which the corporation could make directly under this chapter, and (c) make other investments.

(14) Conduct studies and make and adopt standards for lending.

(15) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

(16) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the corporation.

NEW SECTION. Sec. 3. The voting stock of the Washington land bank shall be held only by borrowers who are farmers or ranchers, which stock shall not be transferred, pledged, or hypothecated except to other eligible borrowers. The rules promulgated by the director pursuant to section 1 of this act shall provide for the amount, par value, classes, voting, dividends, and other attributes of the stock of the corporation.

NEW SECTION. Sec. 4. The Washington land bank is authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas to eligible borrowers, and to make continuing commitments to make such loans under specified circumstances, for a term of not less than five nor more than forty years.

NEW SECTION. Sec. 5. Loans made by the Washington land bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the board of directors of the bank from time to time, in accordance with rules promulgated pursuant to section 1 of this act. In setting rates and charges, it shall be the objective to provide the credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the corporation, necessary reserves and expenses of the corporation, and providing services to stockholders and members. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the corporation.

NEW SECTION. Sec. 6. The services authorized in this chapter may be made available to persons who are or become stockholders or members in the Washington land bank and are bona fide farmers or ranchers.

NEW SECTION. Sec. 7. Loans originated by the Washington land bank or in which it participates with another lender, including principal and all accrued interest the payment of which has been deferred pursuant to section 8 of this act, shall not exceed sixty-five percent of the appraised value of the real estate security, and shall be secured by first liens on interests in real estate of such classes as may be provided by rule promulgated pursuant to section 1 of this act. The value of security shall be determined by appraisal under appraisal standards prescribed by such rules. Additional security may be required to supplement real estate security.

NEW SECTION. Sec. 8. A borrower may elect, during the first five years of a loan originated by the Washington land bank or in which it participates with another lender, to defer payment of all or any portion of the principal or interest due from the borrower to the corporation, unless the deferral of such payment would cause the principal and accrued interest on such loan to exceed sixty-five percent of the original appraised value or the current appraised value, whichever is less. Upon such election, the payment schedule related to such loan shall be recomputed and modified to provide for repayment of the principal amount of the loan plus accrued but unpaid interest and all interest which shall accrue during the period of deferral and thereafter over a term equal to the original term of the loan, commencing as of the date of such deferral.

NEW SECTION. Sec. 9. Loans made by the Washington land bank shall be made on the basis of long-term profitability rather than short-term cash flow.

NEW SECTION. Sec. 10. The Washington land bank may, in accordance with rules adopted pursuant to section 1 of this act, cause loans to be originated or serviced by other entities, including cooperative associations organized specifically for the purposes of this chapter, and may pay or charge a fee therefor.

NEW SECTION. Sec. 11. Loans made by the Washington land bank to farmers and ranchers may be for any agricultural need of the borrower. The bank may own and lease, or lease with option to purchase, to persons eligible for assistance under this chapter, facilities needed in the operations of such persons.

NEW SECTION. Sec. 12. The provisions of the general corporation laws of this state, and all powers and rights thereunder, shall apply to the corporation organized under this chapter, except where such provisions are in conflict with or inconsistent with the express provisions of this chapter or rules adopted pursuant to section 1 of this act.

NEW SECTION. Sec. 13. Bonds and other evidences of indebtedness issued pursuant to this chapter shall not be obligations of the state of Washington and shall be obligations only of the Washington land bank established pursuant to this chapter. Funds of the Washington land bank shall

not be or constitute public moneys or funds of the state of Washington but shall at all times be kept segregated and set apart from other funds.

NEW SECTION. Sec. 14. There is hereby created the land bank advisory committee to advise the department of general administration in the development of rules and procedures under section 1 of this act which apply to the establishment of the Washington land bank. The committee shall be composed of nine members: One member from each caucus appointed by the president of the senate; one member from each caucus appointed by the speaker of the house of representatives; the director of agriculture or his or her designee; one member knowledgeable in agricultural financing appointed by the director of general administration; two members representing agricultural producers appointed by the director of agriculture; and the director of general administration, or his or her designee.

The advisory committee shall meet at the call of the chair elected by the committee, but shall not meet less than four times. The advisory committee shall provide a report on the status of implementation of the Washington land bank to the legislature by January 1, 1987.

Sec. 15. Section 30.04.020, chapter 33, Laws of 1955 as last amended by section 2, chapter 42, Laws of 1983 and RCW 30.04.020 are each amended to read as follows:

The name of every bank shall contain the word "bank" and the name of every trust company shall contain the word "trust," or the word "bank." Except as provided in RCW 33.08.030, no person except:

- (1) A national bank;
- (2) A bank or trust company authorized by the laws of this state;
- (3) A corporation established under section 1 of this 1986 act;
- (4) A foreign corporation authorized by this title so to do, shall,
 - (a) Use as a part of his or its name or other business designation or in any manner as if connected with his or its business or place of business any of the following words or the plural thereof, to wit: "bank," "banking," "banker," "trust."
 - (b) Use any sign at or about his or its place of business or use or circulate any advertisement, letterhead, billhead, note, receipt, certificate, blank, form, or any written or printed or part written and part printed paper, instrument or article whatsoever, directly or indirectly indicating that the business of such person is that of a bank or trust company.

This section shall not prevent a lender approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act from using the words "mortgage banker" or "mortgage banking" in the conduct of its business, but only if both words are used together in either of the forms which appear in quotations in this sentence.

Every person who, and every director and officer of every corporation which, to the knowledge of such director or officer violates any provision of this section shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 17. Sections 1 through 13 of this act shall constitute a new chapter in Title 31 RCW.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 285

[Engrossed Second Substitute Senate Bill No. 3574]

LEASEHOLD EXCISE TAXATION—REVISIONS

AN ACT Relating to leasehold excise taxation; amending RCW 82.29A.020, 82.29A.120, and 84.40.175; and declaring an emergency.

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

Sec. 1. Section 2, chapter 61, Laws of 1975-'76 2nd ex. sess. as amended by section 11, chapter 196, Laws of 1979 ex. sess. and RCW 82-.29A.020 are each amended to read as follows:

As used in this chapter the following terms shall be defined as follows, unless the context otherwise requires:

(1) "Leasehold interest" shall mean an interest in publicly owned real or personal property which exists by virtue of any lease, permit, license, or any other agreement, written or verbal, between the public owner of the property and a person who would not be exempt from property taxes if that person owned the property in fee, granting possession and use, to a degree less than fee simple ownership: **PROVIDED**, That no interest in personal property (excluding land or buildings) which is owned by the United States, whether or not as trustee, or by any foreign government shall constitute a leasehold interest hereunder when the right to use such property is granted pursuant to a contract solely for the manufacture or production of articles for sale to the United States or any foreign government. The term "leasehold interest" shall include the rights of use or occupancy by others of property which is owned in fee or held in trust by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if the property is listed on or is within a district listed on any federal or state register of historical sites. The term "leasehold interest" shall not include road or utility easements or rights of access, occupancy or use granted solely for

the purpose of removing materials or products purchased from a public owner or the lessee of a public owner.

(2) "Taxable rent" shall mean contract rent as defined in subsection (a) of this subsection in all cases where the lease or agreement has been established or renegotiated through competitive bidding, or negotiated or renegotiated in accordance with statutory requirements regarding the rent payable, or negotiated or renegotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor: PROVIDED, That after January 1, 1986, with respect to any lease which has been in effect for ten years or more without renegotiation, taxable rent may be established by procedures set forth in subsection (b) of this subsection. All other leasehold interests shall be subject to the determination of taxable rent under the terms of subsection (b) of this subsection.

(a) "Contract rent" shall mean the amount of consideration due as payment for a leasehold interest, including: The total of cash payments made to the lessor or to another party for the benefit of the lessor according to the requirements of the lease or agreement, including any rents paid by a sublessee; expenditures for the protection of the lessor's interest when required by the terms of the lease or agreement; and expenditures for improvements to the property to the extent that such improvements become the property of the lessor. Where the consideration conveyed for the leasehold interest is made in combination with payment for concession or other rights granted by the lessor, only that portion of such payment which represents consideration for the leasehold interest shall be part of contract rent.

"Contract rent" shall not include: (i) Expenditures made by the lessee, which under the terms of the lease or agreement, are to be reimbursed by the lessor to the lessee or expenditures for improvements and protection made pursuant to a lease or an agreement which requires that the use of the improved property be open to the general public and that no profit will inure to the lessee from the lease; (ii) expenditures made by the lessee for the replacement or repair of facilities due to fire or other casualty including payments for insurance to provide reimbursement for losses or payments to a public or private entity for protection of such property from damage or loss or for alterations or additions made necessary by an action of government taken after the date of the execution of the lease or agreement; (iii) improvements added to publicly owned property by a sublessee under an agreement executed prior to January 1, 1976, which have been taxed as personal property of the sublessee prior to January 1, 1976, or improvements made by a sublessee of the same lessee under a similar agreement executed prior to January 1, 1976, and such improvements shall be taxable to the sublessee as personal property; (iv) improvements added to publicly owned property if such improvements are being taxed as personal property to any person.

Any prepaid contract rent shall be considered to have been paid in the year due and not in the year actually paid with respect to prepayment for a period of more than one year. Expenditures for improvements with a useful life of more than one year which are included as part of contract rent shall be treated as prepaid contract rent and prorated over the useful life of the improvement or the remaining term of the lease or agreement if the useful life is in excess of the remaining term of the lease or agreement. Rent prepaid prior to January 1, 1976, shall be prorated from the date of prepayment.

With respect to a "product lease", the value of agricultural products received as rent shall be the value at the place of delivery as of the fifteenth day of the month of delivery; with respect to all other products received as contract rent, the value shall be that value determined at the time of sale under terms of the lease.

(b) If it shall be determined by the department of revenue, upon examination of a lessee's accounts or those of a lessor of publicly owned property, that a lessee is occupying or using publicly owned property in such a manner as to create a leasehold interest and that such leasehold interest has not been established through competitive bidding, or negotiated in accordance with statutory requirements regarding the rent payable, or negotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor, the department may establish a taxable rent computation for use in determining the tax payable under authority granted in this chapter based upon the following criteria: (i) Consideration shall be given to rental being paid to other lessors by lessees of similar property for similar purposes over similar periods of time; (ii) consideration shall be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person or the general public.

(3) "Product lease" as used in this chapter shall mean a lease of property for use in the production of agricultural or marine products to the extent that such lease provides for the contract rent to be paid by the delivery of a stated percentage of the production of such agricultural or marine products to the credit of the lessor or the payment to the lessor of a stated percentage of the proceeds from the sale of such products.

(4) "Renegotiated" means a change in the lease agreement which changes the agreed time of possession, restrictions on use, the rate of the cash rental or of any other consideration payable by the lessee to or for the benefit of the lessor, other than any such change required by the terms of the lease or agreement. In addition "renegotiated" shall mean a continuation of possession by the lessee beyond the date when, under the terms of

the lease agreement, the lessee had the right to vacate the premises without any further liability to the lessor.

(5) "City" means any city or town.

Sec. 2. Section 12, chapter 61, Laws of 1975-'76 2nd ex. sess. and RCW 82.29A.120 are each amended to read as follows:

After computation of the taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040 there shall be allowed the following credits in determining the tax payable:

~~(1) ((With respect to a leasehold interest arising out of any lease or agreement, the terms of which were binding on the lessee prior to July 1, 1970, where such lease or agreement has not been renegotiated since that date, and excluding from such credit (a) any leasehold interest arising out of any lease of property covered by the provisions of RCW 28B.20.394 and (b) any lease or agreement including options to renew which extends beyond January 1, 1985, as follows:~~

~~With respect to taxes due in calendar year 1976, a credit equal to eighty percent of the tax otherwise due.~~

~~With respect to taxes due in calendar year 1977, a credit equal to sixty percent of the tax otherwise due.~~

~~With respect to taxes due in calendar year 1978, a credit equal to forty percent of the tax otherwise due.~~

~~With respect to taxes due in calendar year 1979, a credit equal to twenty percent of the tax otherwise due.)~~ With respect to a leasehold interest other than a product lease, executed with an effective date of April 1, 1986, or thereafter, or a leasehold interest in respect to which the department of revenue under the authority of RCW 82.29A.020 does adjust the contract rent base used for computing the tax provided for in RCW 82.29A.030, there shall be allowed a credit against the tax as otherwise computed equal to the amount, if any, that such tax exceeds the property tax that would apply to such leased property if it were privately owned.

(2) ~~With respect to a product lease, a credit of thirty-three percent of the tax otherwise due.~~

Sec. 3. Section 84.40.175, chapter 15, Laws of 1961 as amended by section 15, chapter 61, Laws of 1975-'76 2nd ex. sess. and RCW 84.40.175 are each amended to read as follows:

At the time of making the assessment of real property, the assessor shall enter each description of property exempt under the provisions of RCW 84.36.005 through 84.36.060, and value and list the same in the manner and subject to the same rule as he is required to assess all other property, designating in each case to whom such property belongs, and for what purpose used, to entitle it to exemption, and he shall require from every person claiming such exemption proof of the right to such exemption: PROVIDED, That with respect to publicly owned property exempt from taxation under provisions of RCW 84.36.010, the assessor shall value only

such property as is leased to or occupied by a private person under an agreement allowing such person to occupy or use such property for a private purpose when a request for such valuation is received from the department of revenue or the lessee of such property for use in ((an audit of)) determining the taxable rent as provided for in ((RCW 82.29A.020(2)(b))) chapter 82.29A RCW: PROVIDED FURTHER, That this section shall not prohibit any assessor from valuing any public property leased to or occupied by a private person for private purposes.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 9, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 286

[Senate Bill No. 4540]

INSURANCE—PROCEDURES FOR CANCELLING WRITTEN AGREEMENTS BETWEEN COMPANIES AND AGENTS

AN ACT Relating to insurance agency agreements; and adding a new section to chapter 48.17 RCW.

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:

(1) If an insurer intends to cancel a written agreement with an agent, or intends to refuse any class of renewal business from the agent, the insurer shall give the agent not less than one hundred twenty days' advance written notice of such intent. Every insurer canceling a written agreement subject to this section shall permit, for not less than one year after having given notice of its intent to terminate the agency agreement, insureds to process their renewals through the agent, as long as he or she retains an agent's license for the kind of insurance involved, as to any of the policies which have not been replaced with other insurers as expirations occur. An agent with a canceled agreement subject to this section shall remain an agent of the canceling insurer as to actions associated with any such policies just as if he or she were appointed by such insurer as its agent. This subsection shall not apply to: (a) Agents or policies of a company or group of companies if the business is owned by the company or group of companies and the cancellation of any such contractual agreement does not result in

the cancellation or nonrenewal of any policies of insurance; (b) life, disability, surety, ocean marine and foreign trade, and title insurance policies or (c) agents whose licenses are then or become subject to an outstanding order of the commissioner issued pursuant to RCW 48.17.540.

(2) No insurer shall cancel or refuse to renew the policy of the insured because of the termination of the agent's contract.

(3) No insurer may cancel or amend a written agreement with an agent, or refuse to accept business from such agent, if the cancellation, amendment, or refusal is arbitrary, capricious, discriminatory under RCW 48.30.300, or based in whole or part upon the sex, race, creed, color, religion, national origin, or place of residency of the agent, his or her applicants, or policyholders.

(4) Any insurer or agent accepting brokerage business who rejects the business of a broker shall provide upon request of the broker the reasons in writing for the rejection.

(5) No insurer may cancel its agreement with an appointed agent with respect to insurance or refuse to accept insurance business from such agent unless it complies with the provisions of this section.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 287

[Reengrossed Substitute Senate Bill No. 4541]

INSURANCE—CANCELLATION PROCEDURES

AN ACT Relating to insurance; and amending RCW 48.18.290, 48.18.296, and 48.18.2901.

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

Sec. 1. Section .18.29, chapter 79, Laws of 1947 as last amended by section 17, chapter 264, Laws of 1985 and RCW 48.18.290 are each amended to read as follows:

(1) Cancellation by the insurer of any policy which by its terms is cancellable at the option of the insurer, or of any binder based on such policy, may be effected as to any interest only upon compliance with either or both of the following:

(a) Written notice of such cancellation, accompanied by the actual reason therefor, must be actually delivered or mailed to the insured ((or)) and to his or her representative in charge of the subject of the insurance not less than forty-five days prior to the effective date of the cancellation except for cancellation of insurance policies for nonpayment of premiums, which

notice shall be not less than ten days prior to such date and except for cancellation of fire insurance policies under chapter 48.53 RCW, which notice shall not be less than five days prior to such date;

(b) Like notice of not less than forty-five days must also be so delivered or mailed to each mortgagee, pledgee, or other person shown by the policy to have an interest in any loss which may occur thereunder.

(2) The mailing of any such notice shall be effected by depositing it in a sealed envelope, directed to the addressee at his or her last address as known to the insurer or as shown by the insurer's records, with proper pre-paid postage affixed, in a letter depository of the United States post office. The insurer shall retain in its records any such item so mailed, together with its envelope, which was returned by the post office upon failure to find, or deliver the mailing to, the addressee.

(3) The affidavit of the individual making or supervising such a mailing, shall constitute prima facie evidence of such facts of the mailing as are therein affirmed.

(4) The portion of any premium paid to the insurer on account of the policy, unearned because of the cancellation and in amount as computed on the pro rata basis, must be actually paid to the insured or other person entitled thereto as shown by the policy or by any endorsement thereon, or be mailed to the insured or such person as soon as possible, and no later than forty-five days after the date of notice of cancellation to the insured for homeowners', dwelling fire, and private passenger auto. Any such payment may be made by cash, or by check, bank draft, or money order.

(5) This section shall not apply to contracts of life or disability insurance without provision for cancellation prior to the date to which premiums have been paid, or to contracts of insurance procured under the provisions of chapter 48.15 RCW.

Sec. 2. Section 20, chapter 264, Laws of 1985 and RCW 48.18.2901 are each amended to read as follows:

(1) Each insurer shall be required to renew any contract of insurance subject to RCW 48.18.290 unless one of the following situations exists:

(a) The insurer gives the named insured at least forty-five days' notice in writing as provided for in RCW 48.18.290, that it proposes to refuse to renew the insurance contract upon its expiration date; and sets forth therein the actual reason for refusing to renew; or

(b) At least twenty days prior to its expiration date, the insurer has communicated its willingness to renew in writing to the named insured, or to his or her representative, and has included therein a statement of the amount of the premium or portion thereof required to be paid by the insured to renew the policy, ~~((including the amount by which the premium or deductibles have changed from the previous policy period, and the date by which such payment must be made;))~~ and the insured fails to discharge

when due his obligation in connection with the payment of such premium or portion thereof; or

(c) The insured's agent or broker has procured other coverage acceptable to the insured prior to the expiration of the policy period.

(2) A renewal shall be based on rates and forms applicable to the expiring policy and its term, except to the extent the insurer gives at least twenty days' advance notice of changes in rates or contract provisions.

(3) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal, or with respect to cancellation of fire policies under chapter 48.53 RCW.

~~((3))~~ (4) "Renewal" or "to renew" means the issuance and delivery by an insurer of a contract of insurance replacing at the end of the contract period a contract of insurance previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a contract beyond its policy period or term: PROVIDED, HOWEVER, That any contract of insurance with a policy period or term of six months or less whether or not made continuous for successive terms upon the payment of additional premiums shall for the purpose of RCW 48.18.290 and 48.18.293 through 48.18.295 be considered as if written for a policy period or term of six months: PROVIDED, FURTHER, That any policy written for a term longer than one year or any policy with no fixed expiration date, shall, for the purpose of RCW 48.18.290 and 48.18.293 through 48.18.295, be considered as if written for successive policy periods or terms of one year.

Sec. 3. Section 23, chapter 241, Laws of 1969 ex. sess. as last amended by section 22, chapter 264, Laws of 1985 and RCW 48.18.296 are each amended to read as follows:

The provisions of RCW 48.18.291 through 48.18.297 shall not apply to:

- (1) Contracts of insurance issued under the assigned risk plan; ~~((and))~~
- (2) Any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards; and
- (3) Contracts of insurance procured under the provisions of chapter 48.15 RCW.

Passed the Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 4, 1986.

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CHAPTER 288

[Engrossed Senate Bill No. 4738]

JUVENILE OFFENDERS

AN ACT Relating to juveniles; amending RCW 13.32A.050, 13.32A.070, 13.40.200, 13.40.300, 13.40.025, 13.40.027, and 13.50.010; adding a new section to chapter 13.40 RCW; creating new sections; and declaring an emergency.

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

Sec. 1. Section 19, chapter 155, Laws of 1979 as last amended by section 7, chapter 257, Laws of 1985 and RCW 13.32A.050 are each amended to read as follows:

A law enforcement officer shall take a child into custody:

(1) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(2) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's ((physical)) safety; or

(3) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement; or

(4) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued pursuant to chapter 13.32A RCW.

Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination.

An officer who takes a child into custody under this section and places the child in a designated crisis residential center shall inform the department of such placement within twenty-four hours.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

Sec. 2. Section 21, chapter 155, Laws of 1979 as amended by section 5, chapter 298, Laws of 1981 and RCW 13.32A.070 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 13.32A.050 may, at his or her discretion, transport the child to the home of a responsible adult who is other than the child's parent where the officer reasonably believes that the child will be provided with adequate care and supervision and that the child will remain in the custody of such adult until such time as the department can bring about the child's return home or an alternative residential placement can be agreed to or determined pursuant to this chapter. An officer placing a child with a responsible adult other than his or

her parent shall immediately notify the department's local community service office of this fact and of the reason for taking the child into custody.

(2) A law enforcement officer acting (~~(reasonably and)~~) in good faith pursuant to this chapter in failing to take a child into custody, in taking a child into custody, or in releasing a child to a person other than a parent of such child is immune from civil or criminal liability for such action.

(3) A person other than a parent of such child who receives a child pursuant to this chapter and who acts reasonably and in good faith in doing so is immune from civil or criminal liability for the act of receiving such child. Such immunity does not release such person from liability under any other law including the laws regulating licensed child care and prohibiting child abuse.

NEW SECTION. Sec. 3. There shall be created a joint select legislative committee to review the implementation and administration of:

(1) Chapter 13.04 RCW, the basic juvenile court act;

(2) Chapter 13.32A RCW, procedures for families in conflict generally, and specifically review the alternative residential placement process and the advisability of granting the juvenile court jurisdiction to make in-house placements. The committee shall consider the establishment of a residential school to address the needs of children who, pursuant to law, may be ordered into an alternative residential placement. A residential school may be funded and operated, in whole or in part by private contributions;

(3) Chapter 13.34 RCW, the juvenile court act relating to dependency of a child and the termination of a parent and child relationship; and

(4) Chapter 74.13 RCW, child welfare services.

The joint select legislative committee shall be composed of bipartisan members of the house and senate judiciary committee to be selected at the discretion of the committee chairpersons.

The committee established under this section shall meet and conduct hearings as often as is necessary to carry out its responsibilities under this chapter.

In reviewing the implementation and administration of chapters 13.04, 13.32A, 13.34, and 74.13 RCW the joint select legislative committee may inquire into instances where it is alleged that a law enforcement officer, school employee, department employee, judge, or juvenile court employee has either misrepresented a provision of the cited chapters or has failed to follow any such provision.

The joint select legislative committee shall be granted access to all relevant information necessary to monitor behavior of agencies and/or employees: PROVIDED, That any confidential information shall be kept confidential by members of the committee and shall not be further disseminated unless specifically authorized by state or federal law.

The joint select legislative committee shall report its findings and make recommendations regarding implementation of the chapters cited in this

section in a report submitted to the legislature before the 1988 regular session of the legislature.

The joint select legislative committee, unless recreated by the legislature, shall cease to exist after submitting the report required under this section.

NEW SECTION. Sec. 4. The legislature finds that there is evidence of failure to implement and enforce juvenile justice laws. This failure may be due to a number of factors, including, but not necessarily limited to, resource limitations within the various units of government charged with responsibility for such implementation and enforcement.

Therefore, commencing with the effective date of this act, and continuing through such time as further legislative direction is enacted into law, any person legally responsible for implementation or enforcement of any provision of chapter 13.04, 13.32A, 13.34, or 74.13 RCW who is unable to implement or enforce any such provision shall file a report on the situation as soon as possible with the oversight committee created under section 3 of this act or, if the oversight committee has ceased to exist, to the judiciary committees of the house of representatives and the senate. Any such report shall include a documented description of the situation and the reason or reasons for failure to implement or enforce the provision in question.

Nothing contained in this section is intended to limit criminal or civil liability or to protect any employee against possible disciplinary action for failure to perform his or her duties.

Sec. 5. Section 74, chapter 291, Laws of 1977 ex. sess. as last amended by section 15, chapter 191, Laws of 1983 and RCW 13.40.200 are each amended to read as follows:

(1) When a respondent fails to comply with an order of restitution, community supervision, penalty assessments, or confinement of less than thirty days, the court upon motion of the prosecutor or its own motion, may modify the order after a hearing on the violation.

(2) The hearing shall afford the respondent the same due process of law as would be afforded an adult probationer. The court may issue a summons or a warrant to compel the respondent's appearance. The state shall have the burden of proving by a preponderance of the evidence the fact of the violation. The respondent shall have the burden of showing that the violation was not a wilful refusal to comply with the terms of the order. If a respondent has failed to pay a fine, penalty assessments, or restitution or to perform community service hours, as required by the court, it shall be the respondent's burden to show that he or she did not have the means and could not reasonably have acquired the means to pay the fine, penalty assessments, or restitution or perform community service.

(3) (a) If the court finds that a respondent has wilfully violated the terms of an order pursuant to subsections (1) and (2) of this section, it may impose a penalty of up to thirty days' confinement. Penalties for multiple

violations occurring prior to the hearing shall not be aggregated to exceed thirty days' confinement. Regardless of the number of times a respondent is brought to court for violations of the terms of a single disposition order, the combined total number of days spent by the respondent in detention shall never exceed the maximum term to which an adult could be sentenced for the underlying offense.

(b) If the violation of the terms of the order under (a) of this subsection is failure to pay fines, penalty assessments, complete community service, or make restitution, the term of confinement imposed under (a) of this subsection shall be assessed at a rate of one day of confinement for each twenty-five dollars or eight hours owed.

(4) If a respondent has been ordered to pay a fine or monetary penalty and due to a change of circumstance cannot reasonably comply with the order, the court, upon motion of the respondent, may order that the unpaid fine or monetary penalty be converted to community service. The number of hours of community service in lieu of a monetary penalty or fine shall be converted at the rate of the prevailing state minimum wage per hour. The monetary penalties or fines collected shall be deposited in the county general fund. A failure to comply with an order under this subsection shall be deemed a failure to comply with an order of community supervision and may be proceeded against as provided in this section.

Sec. 6. Section 1, chapter 170, Laws of 1975 1st ex. sess. as last amended by section 17, chapter 191, Laws of 1983 and RCW 13.40.300 are each amended to read as follows:

(1) In no case may a juvenile offender be committed by the juvenile court to the department of social and health services for placement in a juvenile correctional institution beyond the juvenile offender's twenty-first birthday. A juvenile may be under the jurisdiction of the juvenile court or the authority of the department of social and health services beyond the juvenile's eighteenth birthday only if prior to the juvenile's eighteenth birthday:

(a) ~~((The juvenile court has committed the juvenile offender to the department of social and health services for a sentence consisting of the standard range of disposition for the offense and the sentence includes a period beyond the juvenile offender's eighteenth birthday; or~~

~~(b) The juvenile court has committed the juvenile offender to the department of social and health services for a sentence outside the standard range of disposition for the offense and the sentence includes a period beyond the juvenile's eighteenth birthday and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile offender for that period; or~~

(c)) Proceedings are pending seeking the adjudication of a juvenile offense (~~or seeking a disposition order or the enforcement of such an order~~) and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile beyond his or her eighteenth birthday;

(b) The juvenile has been found guilty after a fact finding or after a plea of guilty and an automatic extension is necessary to allow for the imposition of disposition; or

(c) Disposition has been held and an automatic extension is necessary to allow for the execution and enforcement of the court's order of disposition. If an order of disposition imposes commitment to the department, then jurisdiction is automatically extended to include a period of up to twelve months of parole, in no case extending beyond the offender's twenty-first birthday.

(2) If the juvenile court previously has extended jurisdiction beyond the juvenile offender's eighteenth birthday and that period of extension has not expired, the court may further extend jurisdiction by written order setting forth its reasons.

(3) In no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender's twenty-first birthday.

(4) Notwithstanding any extension of jurisdiction over a person pursuant to this section, the juvenile court has no jurisdiction over any offenses alleged to have been committed by a person eighteen years of age or older.

NEW SECTION. Sec. 7. It is the policy of this state that all county juvenile detention facilities provide a humane, safe, and rehabilitative environment and that unadjudicated youth remain in the community whenever possible, consistent with public safety and the provisions of chapter 13.40 RCW.

Sec. 8. Section 3, chapter 299, Laws of 1981 as amended by section 11, chapter 287, Laws of 1984 and RCW 13.40.025 are each amended to read as follows:

(1) There is established a juvenile disposition standards commission to propose disposition standards to the legislature in accordance with RCW 13.40.030 and perform the other responsibilities set forth in this chapter.

(2) The commission shall be composed of the secretary or the secretary's designee and the following ~~((eight))~~ nine members appointed by the governor, subject to confirmation by the senate: (a) A superior court judge; (b) a prosecuting attorney or deputy prosecuting attorney; (c) a law enforcement officer; (d) an administrator of juvenile court services; (e) a public defender actively practicing in juvenile court; ~~((and))~~ (f) a county legislative official or county executive; and (g) three other persons who have demonstrated significant interest in the adjudication and disposition of juvenile offenders. 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; of Washington prosecutors in respect to the prosecuting attorney or deputy prosecuting attorney member; of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer; of juvenile court administrators in respect to the member who is a juvenile court administrator; and of the state bar association in respect to the public defender member; and of the Washington association of counties in respect to the member who is either a county legislative official or county executive.

(3) The secretary or the secretary's designee shall serve as chairman of the commission.

(4) The secretary shall serve on the commission during the secretary's tenure as secretary of the department. The term of the remaining members of the commission shall be three years. The initial terms shall be determined by lot conducted at the commission's first meeting as follows: (a) Four members shall serve a two-year term; and (b) four members shall serve a 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 in accordance with RCW 43.03.240.

(6) ~~((The commission's first meeting shall be held prior to January 1, 1982. Thereafter,))~~ The commission shall meet at least once every ((six)) three months.

Sec. 9. Section 4, chapter 299, Laws of 1981 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 to the legislature 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 with recommendations for modification of the disposition standards.

NEW SECTION. Sec. 10. A new section is added to chapter 13.40 RCW to read as follows:

The commission, in cooperation and consultation with the judiciary committees of the senate and house of representatives, shall propose to the legislature state-wide standards by November 1, 1987, on the following subjects:

(1) The detention intake procedures used and decisions made to release or detain youth in juvenile detention facilities;

(2) The use of punishment, security, and control mechanisms such as isolation, restraints, program restrictions, and the procedures required for their use;

(3) Availability and quality of health care;

(4) Inventory and storage of residents' belongings;

(5) Access to defense counsel;

(6) Residents' rights to communicate with persons outside the facility; and

(7) Information gathering and reporting necessary for educated decision-making by the commission and for the proper monitoring of facilities for compliance with commission standards.

The standards proposed under this section shall become effective upon approval by the legislature.

Sec. 11. Section 8, chapter 155, Laws of 1979 and RCW 13.50.010 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the department of social and health services and its contracting agencies, and persons or public or private agencies having children committed to their custody;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information;

(b) An agency shall take reasonable steps to insure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment, or to individuals or agencies engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the juvenile disposition standards commission under RCW 13.40.025 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

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

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 Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 289

[Substitute Senate Bill No. 4797]

UNDERGROUND STORAGE TANKS

AN ACT Relating to underground storage tanks; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature finds that underground storage tanks may be leaking petroleum products and other hazardous substances in quantities sufficient to pose a threat to public health and the environment. The legislature further finds that congress has adopted Subtitle I under the hazardous and solid waste amendments of 1984 (Public Law 98-616), which addresses the issue of leaking underground storage tanks and prescribes a new federal program to control this source of pollution.

(2) The department of ecology shall, no later than December 31, 1986, after consulting with representatives of the business community, submit a report to the appropriate standing committees of the legislature which describes and assesses the nature of the underground storage tank problem in the state. This report shall include, but is not limited to the following information:

- (a) The number of underground storage tanks in the state;
- (b) The location of underground storage tanks in the state;
- (c) The age, size, and materials used to construct tanks identified;
- (d) The substances stored in the tanks; and
- (e) Leak detection methods currently used.

The report shall be accompanied by an overview of underground storage tank programs implemented or proposed for implementation in other selected states and the federal government, and shall include the costs and methods of funding those programs, and their cost-effectiveness. The report

shall include an overview of liability questions for leaking underground storage tanks.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 290

[Senate Bill No. 4906]

TRANSPORTATION CAPITAL PROJECTS—STATE FINANCE COMMITTEE AUTHORITY

AN ACT Relating to capital projects; and amending RCW 47.10.802, 47.10.803, 47.26-421, 47.26.422, 47.26.423, 47.10.791, 47.10.792, 47.60.560, and 47.60.570.

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

Sec. 1. Section 2, chapter 316, Laws of 1981 as last amended by section 23, chapter 53, Laws of 1983 1st ex. sess. and RCW 47.10.802 are each amended to read as follows:

Upon request being made by the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.801 in accordance with chapter 39.42 RCW. The amount of such bonds issued and sold under RCW 47.10.801 through 47.10.809 in any biennium may not exceed the amount of a specific appropriation therefor. Such bonds may be sold from time to time in such amounts as may be necessary for the orderly progress of the state highway improvements specified in RCW 47.10.801. The amount of bonds issued and sold under RCW 47.10.801(1)(a) in any biennium shall not, except as provided in that section, exceed the amount required to match federal-aid interstate funds available to the state of Washington. The transportation commission shall give notice of its intent to sell bonds to the legislative transportation committee before requesting the state finance committee to issue and sell bonds authorized by RCW 47.10.801(1)(a). The bonds shall be sold in such manner, at such time or times, in such amounts, and at such price or prices as the state finance committee shall determine. The state finance committee may obtain insurance, letters of credit, or other credit facility devices with respect to the bonds 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 the bonds. Promissory notes or other obligations issued under 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 promissory notes or other obligations relate. The state finance committee may authorize 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 purposes of retiring the bonds during the life of the project for which they were issued.

Sec. 2. Section 3, chapter 316, Laws of 1981 as amended by section 8, chapter 433, Laws of 1985 and RCW 47.10.803 are each amended to read as follows:

The proceeds from the sale of the bonds authorized by RCW 47.10.801(1) (a) and (b) shall be deposited in the motor vehicle fund. The proceeds from the sale of the bonds authorized by RCW 47.10.801(1)(c) shall be deposited in the economic development account of the motor vehicle fund, hereby created. All such proceeds shall be available only for the purposes enumerated in RCW 47.10.801, for the payment of bond anticipation notes, if any, and for the payment of the expense incurred in the drafting, printing, issuance, and sale of such bonds. The costs of obtaining insurance, letters of credit, or other credit enhancement devices with respect to the bonds shall be considered to be expenses incurred in the issuance and sale of the bonds.

Sec. 3. Section 46, chapter 83, Laws of 1967 ex. sess. as last amended by section 6, chapter 315, Laws of 1981 and RCW 47.26.421 are each amended to read as follows:

Each of such first authorization bonds, series II bonds, and series III bonds shall be made payable at any time not exceeding thirty years from the date of its issuance, with such reserved rights of prior redemption, bearing such interest, and such terms and conditions, as the state finance committee may prescribe to be specified therein. The bonds shall be signed by the governor and the state treasurer under the seal of the state, ~~((one)) either or both of which signatures ((shall be made manually and the other signature))~~ may be in printed facsimile, and any coupons attached to such bonds shall be signed by the same officers whose signatures thereon may be in printed facsimile. Any bonds may be registered in the name of the holder on presentation to the state treasurer or at the fiscal agency of the state of Washington in Seattle or New York City, as to principal alone, or as to both principal and interest under such regulations as the state treasurer may prescribe. Such bonds shall be payable at such places as the state finance committee may provide. All bonds issued hereunder shall be fully negotiable instruments.

Sec. 4. Section 47, chapter 83, Laws of 1967 ex. sess. as last amended by section 7, chapter 315, Laws of 1981 and RCW 47.26.422 are each amended to read as follows:

The first authorization bonds, series II bonds, and series III bonds issued hereunder shall be in denominations to be prescribed by the state finance committee and may be sold in such manner and in such amounts and

at such times and on such terms and conditions as the committee may prescribe. ~~((If the bonds are sold to any purchaser other than the state of Washington, they shall be sold at public sale, and it shall be the duty of the state finance committee to cause such sale to be advertised in such manner as it shall deem sufficient.))~~ The state finance committee may obtain insurance, letters of credit, or other credit facility devices with respect to the bonds 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 the bonds. 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 promissory notes or other obligations relate. The state finance committee may authorize 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. Bonds issued under the provisions of RCW 47.26.420 through 47.26.427 and 47.26.425 shall be legal investment for any of the funds of the state, except the permanent school fund.

Sec. 5. Section 48, chapter 83, Laws of 1967 ex. sess. as last amended by section 8, chapter 315, Laws of 1981 and RCW 47.26.423 are each amended to read as follows:

The money arising from the sale of the first authorization bonds, series II bonds, and series III bonds shall be deposited in the state treasury to the credit of the urban arterial trust account in the motor vehicle fund, and such money shall be available only for the construction and improvement of county and city urban arterials, and for payment of the expense incurred in the printing, issuance, and sale of any such bonds. The costs of obtaining insurance, letters of credit, or other credit enhancement devices with respect to the bonds shall be considered to be expenses incurred in the issuance and sale of the bonds.

Sec. 6. Section 2, chapter 180, Laws of 1979 ex. sess. and RCW 47.10.791 are each amended to read as follows:

Upon request being made by the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.790 in accordance with the provisions of chapter 39.42 RCW. The amount of such bonds issued and sold under the provisions of RCW 47.10.790 through 47.10.798 in any biennium may not exceed the amount of a specific appropriation therefor. Such bonds may be sold from time to time in such amounts as may be necessary for the orderly progress of the state highway improvements specified in RCW 47.10.790. The bonds shall be sold in such manner, at such time or

times, in such amounts, and at such price or prices as the state finance committee shall determine. The state finance committee may obtain insurance, letters of credit, or other credit facility devices with respect to the bonds 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 the bonds. Promissory notes or other obligations issued under 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 promissory notes or other obligations relate. The state finance committee may authorize 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 purposes of retiring the bonds during the life of the project for which they were issued.

Sec. 7. Section 3, chapter 180, Laws of 1979 ex. sess. and RCW 47.10.792 are each amended to read as follows:

The proceeds from the sale of the bonds authorized by RCW 47.10.790 shall be deposited in the motor vehicle fund and such proceeds shall be available only for the purposes enumerated in RCW 47.10.790, for the payment of bond anticipation notes, if any, and for the payment of the expense incurred in the drafting, printing, issuance, and sale of such bonds. The costs of obtaining insurance, letters of credit, or other credit enhancement devices with respect to the bonds shall be considered to be expenses incurred in the issuance and sale of the bonds.

Sec. 8. Section 1, chapter 360, Laws of 1977 ex. sess. as last amended by section 1, chapter 176, Laws of 1985 and RCW 47.60.560 are each amended to read as follows:

In order to provide funds necessary for vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements for the Washington state ferries, there shall be issued and sold upon the request of the department general obligation bonds of the state of Washington in the sum of one hundred thirty-five million dollars or such amount thereof as may be required (together with other funds available therefor). If the state of Washington is able to obtain matching funds from the urban mass transportation administration or other federal government agencies for the acquisition of passenger-only vessels capable of operating as an integral part of the Washington state ferries on Puget Sound and the Straits of Juan de Fuca, a sufficient amount of the proceeds of the bonds authorized herein shall be used to pay the state's share of the acquisition cost of the passenger-only vessels. Upon request being made by the department, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in accordance with chapter 39.42 RCW. The bonds may be sold from time to time in such amounts as may be

necessary for the orderly progress in constructing the ferries. The bonds shall be sold in such manner, at such time or times, in such amounts, and at such price or prices as the state finance committee shall determine. The state finance committee may obtain insurance, letters of credit, or other credit facility devices with respect to the bonds 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 the bonds. Promissory notes or other obligations issued under 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 promissory notes or other obligations relate. The state finance committee may authorize 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 purposes of retiring the bonds during the life of the project for which they were issued.

Sec. 9. Section 2, chapter 360, Laws of 1977 ex. sess. and RCW 47-.60.570 are each amended to read as follows:

The proceeds from the sale of the bonds shall be deposited in the Puget Sound capital construction account of the motor vehicle fund and such proceeds shall be available only for the purposes enumerated in RCW 47.60-.560, for the payment of bond anticipation notes, if any, and for the payment of the expense incurred in the drafting, printing, issuance, and sale of such bonds. The costs of obtaining insurance, letters of credit, or other credit enhancement devices with respect to the bonds shall be considered to be expenses incurred in the issuance and sale of the bonds.

Passed the Senate March 10, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 291

[Substitute Senate Bill No. 4815]
PUBLIC WORKS BOARD LOANS

AN ACT Relating to appropriations for projects recommended by the public works board; making appropriations; and declaring an emergency.

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

NEW SECTION.** Sec. 1. Pursuant to chapter 43.155 RCW, there is appropriated to the public works board from the public works assistance account for the biennium ending June 30, 1987, the following sums to make loans for the specified public works projects: ***PROVIDED, That loans shall

not be made for any project located within any political subdivision which after the effective date of this section requires, directly or indirectly, a person engaged in a refuse collection business to absorb the tax imposed on such business under RCW 82.16.020, and monies appropriated for that project shall be held in reserve until the political subdivision no longer requires the tax to be absorbed:

(1) Water project, City of Asotin	\$102,000
(2) Water project, Moab Irrigation District No. 20	\$500,000
(3) Road and street project, City of Yakima	\$720,000
(4) Water project, N.E. Lake Washington Wa- ter and Sewer District	\$1,000,000
(5) Water project, Grays Harbor County Water District No. 7	\$61,650
(6) Road and street project, City of Bothell	\$214,030
(7) Storm sewer project, City of Seattle	\$375,300
(8) Bridge project, City of Pomeroy	\$27,000
(9) Water project, King County Water District No. 127	\$310,770
(10) Water project, Town of Coupeville	\$450,000
(11) Sanitary sewer project, City of Selah	\$1,000,000
(12) Road and street project, City of Omak	\$145,800
(13) Road and street project, City of Deer Park	\$570,000
(14) Water project, City of Hoquiam	\$1,000,000
(15) Water project, City of Kent	\$400,000
(16) Road and street project, Spokane County	\$1,000,000
(17) Storm sewer project, Town of Endicott	\$55,800
(18) Combination project, City of Issaquah	\$449,561
(19) Road and street project, City of Aberdeen	\$210,000
(20) Water project, City of Grand Coulee	\$256,500
(21) Combination project, Town of Friday Harbor	\$935,000
(22) Water project, City of Cheney	\$31,000
(23) Water project, City of Shelton	\$58,500
(24) Water project, City of Black Diamond	\$187,000
(25) Water project, Vera Irrigation District No. 15	\$422,100
(26) Combination project, City of Fife	\$519,875
(27) Road and street project, Jefferson County	\$660,267
(28) Water project, City of Spokane	\$932,720
(29) Road and street project, City of Lacey	\$965,700
(30) Road and street project, City of Long Beach	\$36,000

(31) Water project, Town of Oroville	\$302,500
(32) Bridge project, Klickitat County	\$74,000
(33) Road and street project, City of Kalama	\$188,100
(34) Water project, City of Winlock	\$100,000
(35) Sanitary sewer project, City of Prosser	\$1,000,000
(36) Water project, City of Grandview	\$174,600
(37) Water project, City of Chewelah	\$247,320
(38) Water project, City of Snohomish	\$117,000
(39) Storm sewer project, Kitsap County	\$252,000
(40) Sanitary sewer project, City of Mount Vernon.....	\$1,000,000
Total Appropriation	\$17,052,093

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

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

Passed the Senate March 9, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to a portion of section 1, Substitute Senate Bill No. 4815, entitled:

"AN ACT Relating to appropriations for projects recommended by the Public Works Board."

Substitute Senate Bill No. 4815 appropriated \$17,052,093 to the Public Works Board from the Public Works Assistance Account for specific public works projects.

A proviso was attached to section 1 (page 1, lines 9 through 15) that prohibits public works loans from being made by the Public Works Board for projects in jurisdictions where the public utility tax, imposed by RCW 82.16.020, on refuse haulers cannot be passed through to the individuals who receive the service.

I have vetoed this proviso for two reasons. First, if the proviso is enacted, those jurisdictions that prohibit the pass-through could not receive the needed project loans as they have anticipated. The funds are available and should be distributed as planned so that the effected jurisdictions can initiate their construction projects in a timely manner. Further, the public utility tax imposed on refuse haulers has been replaced with a business and occupation tax and a retail sales tax with my approval of Substitute House Bill No. 1447, making this proviso ineffective and unnecessary. For this reason, I have vetoed the proviso in section 1 (page 1, lines 9 through 15).

With the exception of the section 1 proviso located on page 1, lines 9 through 15, Substitute Senate Bill No. 4815 is approved."

CHAPTER 292

[Substitute Senate Bill No. 4572]
SHORELINE MANAGEMENT

AN ACT Relating to shoreline management; amending RCW 90.58.030, 90.58.180, 90.58.190, and 90.58.210; and prescribing penalties.

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

*Sec. 1. Section 3, chapter 286, Laws of 1971 ex. sess. as last amended by section 2, chapter 13, Laws of 1982 1st ex. sess. and RCW 90.58.030 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(1) Administration:

(a) "Department" means the department of ecology;

(b) "Director" means the director of the department of ecology;

(c) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(d) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated;

(e) "Hearing board" means the shoreline hearings board established by this chapter.

(2) Geographical:

(a) "Extreme low tide" means the lowest line on the land reached by a receding tide;

(b) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

(c) "Shorelines of the state" are the total of all "shorelines" and "shorelines of state-wide significance" within the state;

(d) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying

them; except (i) shorelines of state-wide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

(e) "Shorelines of state-wide significance" means the following shorelines of the state:

(i) The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

(ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(A) Nisqually Delta—from DeWolf Bight to Tatsolo Point,

(B) Birch Bay—from Point Whitehorn to Birch Point,

(C) Hood Canal—from Tala Point to Foulweather Bluff,

(D) Skagit Bay and adjacent area—from Brown Point to Yokeko Point, and

(E) Padilla Bay—from March Point to William Point;

(iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

(iv) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

(v) Those natural rivers or segments thereof as follows:

(A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,

(B) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

(vi) Those wetlands associated with (i), (ii), (iv), and (v) of this subsection (2)(e);

(f) "Wetlands" or "wetland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all marshes, bogs, swamps, and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology: PROVIDED, That any county or city may determine that portion of a one-hundred-

year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom;

(g) "Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

(3) Procedural terms:

(a) "Guidelines" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs;

(b) "Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020;

(c) "State master program" is the cumulative total of all master programs approved or adopted by the department of ecology;

(d) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level;

(e) "Substantial development" shall mean any development of which the total cost or fair market value exceeds ((one)) two thousand five hundred dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except that the following shall not be considered substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

(ii) Construction of the normal protective bulkhead common to single family residences;

(iii) Emergency construction necessary to protect property from damage by the elements;

(iv) Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on wetlands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: **PROVIDED**, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

(v) Construction or modification of navigational aids such as channel markers and anchor buoys;

(vi) Construction on wetlands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;

(vii) Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single family residence, the cost of which does not exceed ((two thousand five hundred dollars)) six thousand five hundred dollars, to be adjusted annually by the Implicit Price Deflator as computed by the United States Department of Commerce: PROVIDED, That the size design and location of the dock shall meet the requirements of local master programs,

(viii) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

(ix) The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

(x) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

(xi) Any action commenced prior to December 31, 1982, pertaining to (A) the restoration of interim transportation services as may be necessary as a consequence of the destruction of the Hood Canal bridge, including, but

not limited to, improvements to highways, development of park and ride facilities, and development of ferry terminal facilities until a new or reconstructed Hood Canal bridge is open to traffic; and (B) the reconstruction of a permanent bridge at the site of the original Hood Canal bridge.

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

Sec. 2. Section 18, chapter 286, Laws of 1971 ex. sess. as last amended by section 2, chapter 51, Laws of 1975-'76 2nd ex. sess. and RCW 90.58-.180 are each amended to read as follows:

(1) Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 as now or hereafter amended may seek review from the shorelines hearings board by filing a request for the same within thirty days of the date of filing as defined in RCW 90.58.140(6) as now or hereafter amended.

Concurrently with the filing of any request for review with the board as provided in this section pertaining to a final order of a local government, the requestor shall file a copy of his request with the department and the attorney general. If it appears to the department or the attorney general that the requestor has valid reasons to seek review, either the department or the attorney general may certify the request within thirty days after its receipt to the shorelines hearings board following which the board shall then, but not otherwise, review the matter covered by the requestor: PROVIDED, That the failure to obtain such certification shall not preclude the requestor from obtaining a review in the superior court under any right to review otherwise available to the requestor. The department and the attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with at any time within fifteen days from the date of the receipt by the department or the attorney general of a copy of the request for review filed pursuant to this section. The shorelines hearings board shall initially schedule review proceedings on such requests for review without regard as to whether such requests have or have not been certified or as to whether the period for the department or the attorney general to intervene has or has not expired, unless such review is to begin within thirty days of such scheduling. If at the end of the thirty day period for certification neither the department nor the attorney general has certified a request for review, the hearings board shall remove the request from its review schedule.

(2) The department or the attorney general may obtain review of any final order granting a permit, or granting or denying an application for a permit issued by a local government by filing a written request with the shorelines hearings board and the appropriate local government within thirty days from the date the final order was filed as provided in RCW 90.58.140(6) as now or hereafter amended.

(3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.04 RCW pertaining

to procedures in contested cases. Judicial review of such proceedings of the shorelines hearings board may be had as provided in chapter 34.04 RCW.

(4) Local government may appeal to the shorelines hearings board any rules, regulations, or guidelines (~~(, designations, or master programs for shorelines of the state)~~) adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

~~((a) In an appeal relating to a master program for shorelines, the board, after full consideration of the positions of the local government and the department, shall determine the validity of the master program:))~~ If the board determines that said ~~((program))~~ rule, regulation, or guideline:

~~((i))~~ (a) Is clearly erroneous in light of the policy of this chapter; or

~~((ii))~~ (b) Constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or

~~((iii))~~ (c) Is arbitrary and capricious; or

~~((iv))~~ (d) Was developed without fully considering and evaluating all ~~((proposed master programs))~~ material submitted to the department by the local government; or

~~((v))~~ (e) Was not adopted in accordance with required procedures; the board shall enter a final decision declaring the ~~((program))~~ rule, regulation, or guideline invalid, remanding the ~~((master program))~~ rule, regulation, or guideline to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local government, a new ~~((master program))~~ rule, regulation, or guideline. Unless the board makes one or more of the determinations as hereinbefore provided, the board shall find the ~~((master program))~~ rule, regulation, or guideline to be valid and enter a final decision to that effect.

~~((b) In an appeal relating to a master program for shorelines of state-wide significance the board shall approve the master program adopted by the department unless a local government shall, by clear and convincing evidence and argument, persuade the board that the master program approved by the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.~~

~~((c) In an appeal relating to rules, regulations, guidelines, master programs of state-wide significance, and designations, the standard of review provided in RCW 34.04.070 shall apply:))~~

(5) Rules, regulations, ~~((designations, master programs,))~~ and guidelines shall be subject to review in superior court, if authorized pursuant to RCW 34.04.070: PROVIDED, That no review shall be granted by a superior court on petition from a local government unless the local government shall first have obtained review under subsection (4) of this section is filed within three months after the date of final decision by the shorelines hearings board.

Sec. 3. Section 19, chapter 286, Laws of 1971 ex. sess. and RCW 90.58.190 are each amended to read as follows:

(1) The department and each local government shall periodically review any master programs under its jurisdiction and make such adjustments thereto as are necessary. ((Each local government shall submit any proposed adjustments, to the department as soon as they are completed. No such adjustment shall become effective until it has been approved by the department.)) Any adjustments proposed by a local government to its master program shall be forwarded to the department for review. The department shall approve, reject, or propose modification to the adjustment. If the department either rejects or proposes modification to the master program adjustment, it shall provide substantive written comments as to why the proposal is being rejected or modified.

(2) Any local government aggrieved by the department's decision to approve, reject, or modify a proposed master program or master program adjustment may appeal the department's decision to the shorelines hearings board. In an appeal relating to shorelines, the shorelines hearings board shall review the proposed master program or master program adjustment and, after full consideration of the presentations of the local government and the department, shall determine the validity of the local government's adjustment in light of the policy of RCW 90.58.020 and the applicable guidelines. In an appeal relating to shorelines of state-wide significance, the board shall uphold the decision by the department unless a local government shall, by clear and convincing evidence and argument, persuade the board that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines. Review by the hearings board shall be considered a contested case under chapter 34.04 RCW. The aggrieved local government shall have the burden of proof in all such reviews. Whenever possible, the review by the hearings board shall be heard within the county where the land subject to the proposed master program or master program adjustment is primarily located. The department and any local government aggrieved by a final decision of the hearings board may appeal the decision to the superior court of Thurston county.

(3) A master program amendment shall become effective after the approval of the department or after the decision of the shorelines hearings board to uphold the master program or master program adjustment, provided that the board may remand the master program or master program adjustment to the local government or the department for modification prior to the final adoption of the master program or master program adjustment.

Sec. 4. Section 21, chapter 286, Laws of 1971 ex. sess. and RCW 90.58.210 are each amended to read as follows:

(1) The attorney general or the attorney for the local government shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the state in conflict with the

provisions and programs of this chapter, and to otherwise enforce the provisions of this chapter.

(2) Any person who shall fail to conform to the terms of a permit issued under this chapter or who shall undertake development on the shorelines of the state without first obtaining any permit required under this chapter shall also be subject to a civil penalty not to exceed one thousand dollars for each violation. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.

(3) 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 or local government, describing the violation with reasonable particularity and ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.

(4) Within thirty days after the notice is received, the person incurring the penalty may apply in writing to the department for remission or mitigation of such penalty. Upon receipt of the application, the department or local government may remit or mitigate the penalty upon whatever terms the department or local government in its discretion deems proper. Any penalty imposed pursuant to this section by the department shall be subject to review by the shorelines hearings board. Any penalty imposed pursuant to this section by local government shall be subject to review by the local government legislative authority. Any penalty jointly imposed by the department and local government shall be appealed to the shorelines hearings board.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 9, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to one portion, Substitute Senate Bill No. 4572, entitled:

"AN ACT Relating to shoreline management."

Section 1(3)(c)(vii) of this bill, on page 5, lines 22 through 26, would increase from \$2,500 to \$6,500 the value of shoreline docks exempted from the permit requirement of the Shoreline Management Act.

One of the purposes of the Shoreline Management Act is to provide public review of proposed substantial developments on the state's shorelines. By requiring a permit for any proposed substantial development, as defined in the Act, the public is

afforded an opportunity to be notified of any substantial development and to comment on its consistency with the goals, policies and regulations of the local master program and of the Shoreline Management Act.

The change proposed to the definition in section 1(3)(c)(vii) would provide a blanket exemption from the permit and public review process for any dock with a value of up to \$6,500. Since docks of this value can have a substantial impact on the environment, create neighborhood conflicts and interfere with navigation, I do not believe such an exemption from the process is appropriate. I am therefore vetoing this portion of Substitute Senate Bill No. 4572.

With the exception of section 1(3)(c)(vii), Substitute Senate Bill No. 4572 is approved.*

CHAPTER 293

[Senate Bill No. 4691]

INDUSTRIAL INSURANCE—CHILD REDEFINED

AN ACT Relating to the definition of child for industrial insurance purposes; amending RCW 51.08.030; and creating a new section.

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

Sec. 1. Section 4, chapter 14, Laws of 1980 and RCW 51.08.030 are each amended to read as follows:

"Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the worker, all while under the age of eighteen years, or under the age of twenty-three years while permanently enrolled at a full time course in an accredited school, and over the age of eighteen years if the child is a dependent as a result of a physical, mental, or sensory handicap.

****NEW SECTION. Sec. 2. The director of the department of labor and industries shall appoint a temporary chiropractic advisory committee from health care professionals licensed under chapter 18.25 RCW. The committee shall consist of six members, three from eastern Washington and three from western Washington, who shall serve without compensation, with the director or the director's designee as chair. The committee shall assist in the development for the director's consideration of standards for the determination of temporary and permanent disability, standards for chiropractic treatment, care and practice, and a proposal for a chiropractic peer review program. The temporary chiropractic advisory committee established by this section shall cease to exist on June 30, 1987.***

*Sec. 2 was vetoed, see message at end of chapter.

Passed the Senate March 8, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 2, Senate Bill No. 4691, entitled:

"AN ACT Relating to the definition of child for industrial insurance purposes."

Section 2 of this bill would create a Chiropractic Advisory Committee to assist the Director of Labor and Industries. Boards, commissions, committees, task forces and similar entities have proliferated in this state, now numbering over 400 such bodies.

State agencies, moreover, generally have the authority to create ad hoc advisory groups as the need arises. This authority makes it unnecessary to create advisory boards in statute.

A Chiropractic Advisory Board to advise the Department of Labor and Industries already exists, created by the department by rule. The committee proposed in this legislation would expire on June 30, 1987; the existing committee can — and probably should — continue past that date. Furthermore, the existing committee can undertake the tasks specified in section 2 of this bill.

For these reasons, I have vetoed section 2.

With the exception of section 2, Senate Bill No. 4691 is approved."

CHAPTER 294

[Substitute Senate Bill No. 4590]

LOCAL GOVERNMENTS—INVESTMENT OF SURPLUS PUBLIC FUNDS

AN ACT Relating to local government; amending RCW 56.16.160 and 57.20.160; adding a new chapter to Title 43 RCW; adding a new section to chapter 36.29 RCW; and making an appropriation.

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

NEW SECTION. Sec. 1. The purpose of this chapter is to enable political subdivisions to participate with the state in providing maximum opportunities for the investment of surplus public funds consistent with the safety and protection of such funds. The legislature finds and declares that the public interest is found in providing maximum prudent investment of surplus funds, thereby reducing the need for additional taxation. The legislature also recognizes that not all political subdivisions are able to maximize the return on their temporary surplus funds. The legislature therefore provides in this chapter a mechanism whereby political subdivisions may, at their option, utilize the resources of the state treasurer's office to maximize the potential of surplus funds while ensuring the safety of public funds.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Public funds investment account" or "investment pool" means the aggregate of all funds from political subdivisions that are placed in the custody of the state treasurer for investment and reinvestment.

(2) "Political subdivision" means any county, city, town, municipal corporation, political subdivision, or special purpose taxing district in the state.

(3) "Local government official" means any officer or employee of a political subdivision who has been designated by statute or by local charter, ordinance, or resolution as the officer having the authority to invest the funds of the political subdivision. However, the county treasurer shall be deemed the only local government official for all political subdivisions for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(4) "Funds" means public funds under the control of or in the custody of any local government official by virtue of the official's authority that are not immediately required to meet current demands.

NEW SECTION. Sec. 3. There is created a trust fund in the state treasury to be known as the public funds investment account. All moneys remitted by local government officials under this chapter shall be deposited in this account. The earnings on any balances in the public funds investment account shall be credited to the public funds investment account, notwithstanding RCW 43.84.090.

NEW SECTION. Sec. 4. If authorized by local ordinance or resolution, a local government official may place funds into the public funds investment account for investment and reinvestment by the state treasurer in those securities and investments set forth in RCW 43.84.080 and chapter 39.58 RCW. The state treasurer shall invest the funds in such manner as to effectively maximize the yield to the investment pool. In investing and reinvesting moneys in the public funds investment account and in acquiring, retaining, managing, and disposing of investments of the investment pool, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital.

NEW SECTION. Sec. 5. The state treasurer's office is authorized to employ such personnel as are necessary to administer the public funds investment account. The bond of the state treasurer as required by law shall be made to include the faithful performance of all functions relating to the investment pool.

*NEW SECTION. Sec. 6. The state treasurer shall by rule prescribe the time periods for investments in the investment pool and the procedure for withdrawal of funds from the investment pool. The state treasurer shall promulgate such other rules as are deemed necessary for the efficient operation of the investment pool. The rules shall also provide for the administrative expenses of the investment pool, including repayment of the initial administrative costs financed out of the appropriation included in this act, to be paid from the pool's earnings and for the interest earnings in excess of the expenses to be credited or paid to the political subdivisions participating

in the pool. The state treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any funds appropriated and expended for the initial administrative costs of the pool. Any credits or payments to political subdivisions shall be calculated and made in a manner which equitably reflects the differing amounts of the political subdivisions' respective deposits in the investment pool fund and the differing periods of time for which the amounts were placed in the investment pool : **PROVIDED, That the appropriated start-up costs of the pool must be repaid by June 30, 1989 .**

*Sec. 6 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 7. The state treasurer shall keep a separate account for each political subdivision having funds in the investment pool. Each separate account shall record the individual amounts deposited in the investment pool, the date of withdrawals, and the earnings credited or paid to the political subdivision. The state treasurer shall report monthly the status of the respective account to each local government official having funds in the pool during the previous month.

NEW SECTION. Sec. 8. At the end of each fiscal year, the state treasurer shall submit to the governor, the state auditor, and the legislative budget committee a summary of the activity of the investment pool. The summary shall indicate the quantity of funds deposited; the earnings of the pool; the investments purchased, sold, or exchanged; the administrative expenses of the investment pool; and such other information as the state treasurer deems relevant.

NEW SECTION. Sec. 9. The state finance committee shall administer this chapter and adopt appropriate rules.

***NEW SECTION. Sec. 10. Local governments may not invest in repurchase agreements, nor have their money invested in repurchase agreements, unless the local government or its agent takes possession of the securities to be repurchased, or a third party holds the securities in trust for the local government.**

*Sec. 10 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 11. A new section is added to chapter 36.29 RCW to read as follows:

Upon the request of one or several units of local government that invest their money with the county under the provisions of RCW 36.29.020, the treasurer of that county may combine those units' moneys for the purposes of investment.

Sec. 12. Section 15, chapter 103, Laws of 1959 as last amended by section 21, chapter 66, Laws of 1983 and RCW 56.16.160 are each amended to read as follows:

Whenever there shall have accumulated in any general or special fund of a sewer district moneys, the disbursement of which is not yet due, the

board of commissioners may, by resolution, authorize the county treasurer to deposit or invest such moneys in qualified public depositories, or to invest such moneys in ~~((direct obligations of the United States government))~~ any investment permitted at any time by RCW 36.29.020: PROVIDED, That the county treasurer may refuse to invest any district moneys the disbursement of which will be required during the period of investment to meet outstanding obligations of the district.

Sec. 13. Section 16, chapter 108, Laws of 1959 as last amended by section 22, chapter 66, Laws of 1983 and RCW 57.20.160 are each amended to read as follows:

Whenever there shall have accumulated in any general or special fund of a water district moneys, the disbursement of which is not yet due, the board of water commissioners may, by resolution, authorize the county treasurer to deposit or invest such moneys in qualified public depositories, or to invest such moneys in ~~((direct obligations of the United States government))~~ any investment permitted at any time by RCW 36.29.020: PROVIDED, That the county treasurer may refuse to invest any district moneys the disbursement of which will be required during the period of investment to meet outstanding obligations of the district.

NEW SECTION. Sec. 14. There is hereby appropriated for the biennium ending June 30, 1987, to the state treasurer from the state treasurer's service fund the sum of one hundred thousand dollars, or so much thereof as may be necessary, to defray the initial administrative costs of the public funds investment account. On or before June 30, 1991, the state treasurer's service fund shall be reimbursed for the amount of such money expended by the state treasurer to defray these initial administrative costs by transferring such money from the public funds investment account to the state treasurer's service fund.

NEW SECTION. Sec. 15. Sections 1 through 10 of this act shall constitute a new chapter in Title 43 RCW.

Passed the Senate March 10, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 10 and a portion of section 6, Substitute Senate Bill 4590, entitled:

"AN ACT Relating to local government."

I fully support the intent of this legislation. It will provide local governments an additional opportunity to maximize the yield on their investments as well as provide the increased protection for public funds. However, language contained in section 10 would unduly restrict local governments' investment options. The repurchase agreement is a valuable cash management tool, the use of which should not be restricted without a corresponding benefit to local governments. The intent of section 10 would

appear to be to require the delivery of securities to control of the local entity. However, failure to define the term "agent" renders this section meaningless and extraneous to the legislation. Therefore, I am vetoing section 10.

The last portion of section 6 after the word "Provided" is vetoed. This language conflicts with provisions of section 14 and would create confusion in the administration of the Act.

With the exception of a portion of section 6 and all of section 10, Substitute Senate Bill 4590 is approved."

CHAPTER 295

[Engrossed Senate Bill No. 4725]

BOARD OF ACCOUNTANCY—CERTIFIED PUBLIC ACCOUNTANTS— REVISIONS

AN ACT Relating to accountancy; amending RCW 18.04.025, 18.04.035, 18.04.045, 18.04.055, 18.04.065, 18.04.105, 18.04.185, 18.04.195, 18.04.205, 18.04.215, 18.04.295, 18.04.305, 18.04.320, 18.04.335, 18.04.345, 18.04.350, 18.04.380, 18.04.390, 18.04.405, 18.04.901, and 18.04.920; decodifying RCW 18.04.930, 18.04.931, 18.04.932, 18.04.933, and 18.04.934; repealing RCW 43.131.311 and 43.131.312; declaring an emergency; and providing an effective date.

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

Sec. 1. Section 3, chapter 234, Laws of 1983 and RCW 18.04.025 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 the board of accountancy created by RCW 18.04.035.

(2) "Certified public accountant" or "CPA" means a person holding a certified public accountant certificate issued under this chapter or the accountancy act of any state.

(3) "State" includes the states of the United States, the District of Columbia, Puerto Rico, Guam, and the United States Virgin Islands.

(4) "Opinions on financial statements" are any reports prepared by certified public accountants, based on examinations in accordance with generally accepted auditing standards as to whether the presentation of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private, or governmental, conforms with generally accepted accounting principles or other comprehensive bases of accounting.

(5) The "practice of public accounting" means performing services as one skilled in the knowledge and practice of public accounting and preparing reports designated as "audit reports," "review reports," and "compilation reports."

(6) "Firm" means a sole proprietorship, a corporation, or a partnership.

(7) "CPE" means continuing professional education.

(8) "Certificate" means a certificate as a certified public accountant issued under this chapter, or a corresponding certificate issued by another state.

(9) "Licensee" means the holder of a certificate who also holds a valid license issued under this chapter.

(10) "License" means a biennial license issued to an individual or firm under this chapter.

(11) "Quality assurance review" means a study, appraisal, or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person or persons who hold certificates and who are not affiliated with the person or firm being reviewed.

(12) "Rule" means any rule adopted by the board under authority of this chapter.

Sec. 2. Section 4, chapter 234, Laws of 1983 and RCW 18.04.035 are each amended to read as follows:

(1) There is created a board of accountancy for the state of Washington to be known as the Washington board of accountancy. The board shall consist of five members appointed by the governor. Members of the board shall include four persons who hold certified public accountant certificates and have been in public practice as certified public accountants in this state continuously for the previous ten years. The fifth member shall be the public member and shall be a person who is qualified to judge whether the qualifications, activities, and professional practice of those regulated under this chapter conform with standards to protect the public interest.

(2) The members of the board of accountancy (~~((existing immediately prior to July 1, 1983, shall serve out their existing terms as members of the board created under this act. Thereafter, each member of the board))~~) shall be appointed by the governor to a term of three years. (~~((Their successors shall be appointed for terms of three years.))~~) Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of a member's term of office, the member shall continue to serve until a successor has been appointed and has assumed office. The governor shall remove from the board any member whose certificate or ~~((permit))~~ license to practice has been revoked or suspended and may, after hearing, remove any member of the board for neglect of duty or other just cause. No person who has served two successive complete terms is eligible for reappointment. Appointment to fill an unexpired term is not considered a complete term.

Sec. 3. Section 5, chapter 234, Laws of 1983 and RCW 18.04.045 are each amended to read as follows:

(1) The board shall annually elect a chairman, a vice chairman, and a secretary from its members.

(2) The board may adopt and amend rules under chapter 34.04 RCW for the orderly conduct of its affairs and for the administration of this chapter.

(3) A majority of the board constitutes a quorum for the transaction of business.

(4) The board shall have a seal which shall be judicially noticed.

(5) The board shall keep records of its proceedings, and of any proceeding in court arising from or founded upon this chapter. Copies of these records certified as correct under the seal of the board are admissible in evidence as tending to prove the content of the records.

(6) The board may employ personnel and arrange for assistance as it requires to perform its duties. Individuals or committees assisting the board under this subsection (6) constitute volunteers for purposes of chapter 4.92 RCW.

~~((2))~~ (7) Each member of the board shall receive compensation as provided under RCW 18.04.080.

~~((3))~~ (8) The board shall file an annual report of its activities with the governor. The report shall include, but not be limited to, a statement of all receipts and disbursements ~~((and a listing of all certified public accountants who are registered, or who have offices registered, or permits to practice issued under this chapter))~~. Upon request, the board shall mail a copy of each annual report ~~((to any person, office, partnership, or corporation listed, or))~~ to any member of the public.

Sec. 4. Section 6, chapter 234, Laws of 1983 and RCW 18.04.055 are each amended to read as follows:

The board shall prescribe rules consistent with this chapter as necessary to implement this chapter. Included may be:

(1) Rules of procedure to govern the conduct of matters before the board;

(2) Rules of professional conduct to establish and maintain high standards of competence and integrity in the profession;

(3) Educational requirements to set for an examination or for the issuance of the certificate or license of certified public accountant;

(4) Rules designed to ensure that certified public accountants' "opinions on financial statements" meet the definitional requirements for that term as specified in RCW 18.04.025;

(5) Requirements for continuing professional education to maintain or improve the professional competence of ~~((permit))~~ certificate and license holders ((to practice under RCW 18.04.215)) as a condition to maintaining their ((continuing in the practice of public accounting)) certificate or license to practice under RCW 18.04.215;

(6) Regulations governing sole proprietors, partnerships, and corporations practicing public accounting including, but not limited to, rules concerning their style, name, title, and affiliation with any other organization,

and establishing reasonable practice standards to protect the public interest;~~((and))~~

(7) The board may by rule implement a quality assurance review program as a means to monitor licensees' quality of practice and compliance with professional standards. The board may exempt from such program, licensees who undergo periodic peer reviews in programs of the American Institute of Certified Public Accountants, National Association of State Boards of Accountancy, or other programs recognized and approved by the board by rule.

(8) The board may by rule require firms to obtain professional liability insurance if in the board's discretion such insurance provides additional and necessary protection for the public; and

(9) Any other rule which the board finds necessary or appropriate to implement this chapter.

****Sec. 5. Section 24, chapter 234, Laws of 1983 and RCW 18.04.065 are each amended to read as follows:***

The board shall set its fees at a level adequate to pay the costs of administering this chapter. All fees shall be deposited into an account in the state treasury known as the certified public accountants' account.

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

Sec. 6. Section 7, chapter 234, Laws of 1983 as amended by section 3, chapter 57, Laws of 1985 and RCW 18.04.105 are each amended to read as follows:

(1) The certificate of "certified public accountant" shall be granted by the board to any person:

(a) Who is of good character. Good character, for purposes of this section, means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good character is supported by a preponderance of evidence. When an applicant is found to be unqualified for a certificate because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board and a notice of the applicant's right of appeal;

(b) ~~Who has ((a baccalaureate degree conferred by a college or university recognized by the board, and whose educational program included an accounting concentration or its equivalent, and related subjects)) met such educational standards established by rule as the board determines to be appropriate; and~~

(c) Who has passed a written examination in accounting, auditing, and related subjects the board determines to be appropriate.

(2) ~~((The board may, in its discretion, waive the educational requirement for any person if it is satisfied, by appropriate means of evaluation,~~

that the person's educational qualifications are an acceptable substitute for the requirements of subsection (1)(b) of this section:

~~(3))~~ The examination described in subsection (1)(c) of this section shall be held by the board and shall take place as often as the board determines to be desirable, but at least once a year. The board may use all or any part of the examination ~~((and))~~ or grading service of the American Institute of Certified Public Accountants or National Association of State Boards of Accountancy to assist it in performing its duties under this chapter.

~~((4))~~ A person who has met the educational requirements of subsection (1)(b) of this section, or who expects to meet it within one hundred twenty days following the examination, or with respect to whom it has been waived under subsection (2) of this section, is eligible to take the examination if the person also meets the requirements of subsection (1)(a) of this section. If a person is admitted to the examination on the expectation that he or she will complete the educational requirement within one hundred twenty days, no certificate may be issued, nor credit for the examination or any part of it be given, unless this requirement is in fact completed within that time or within such time as the board in its discretion may determine upon application.

~~(5))~~ (3) The board may, by rule, provide for granting credit to a person for satisfactory completion of a written examination in any one or more of the subjects specified in subsection (1)(c) of this section given by the licensing authority in any other state. These rules shall include requirements the board determines to be appropriate in order that any examination approved as a basis for any credit shall, in the judgment of the board, be at least as thorough as the most recent examination given by the board at the time credit is granted.

(4) The board may, by rule, prescribe the terms and conditions under which a person who passes the examination in one or more of the subjects indicated in subsection (1)(c) of this section may be reexamined in only the remaining subjects, giving credit for the subjects previously passed. It may also provide by rule for a reasonable waiting period for a person's reexamination in a subject he or she has failed. A person is entitled to any number of reexaminations, subject to this subsection and any other rules adopted by the board.

(5) A person passing the examination in any one or more subjects specified in subsection (1)(c) of this section shall meet the educational requirements of subsection (1)(b) of this section in effect on the date the person successfully completes the requirements of subsection (1)(c) of this section. The board may provide, by rule, for exceptions to prevent what it determines to be undue hardship to applicants.

(6) The board shall charge each applicant an examination fee for the initial examination under subsection (1) of this section, or for reexamination under subsection ~~((5))~~ (4) of this section for each subject in which the

applicant is reexamined(~~(, or for evaluation of a person's educational qualifications under subsection (2) of this section)~~). The applicable fee shall be paid by the person at the time he or she applies for examination, reexamination, or evaluation of educational qualifications. Fees for examination, reexamination, or evaluation of educational qualifications shall be determined by the board under chapter 18.04 RCW. There is established in the state treasury an account to be known as the certified public accountants' (~~(examination)~~) account. All fees received from candidates to take any or all sections of the certified public accountant examination (~~(shall be deposited by the board into this account, and funds appropriated from the account)~~) shall be used only for costs (~~(directly)~~) related to the examination. All earnings of investments of balances in the certified public accountants' (~~(examination)~~) account shall be credited to the general fund.

(7) Persons who on (~~July 1, 1983~~) June 30, 1986, held certified public accountant certificates previously issued under the laws of this state shall not be required to obtain additional certificates under this chapter, but shall otherwise be subject to this chapter. Certificates previously issued shall, for all purposes, be considered certificates issued under this chapter and subject to its provisions.

(8) (~~(a) Persons who on July 1, 1983, hold registrations as licensed public accountants and annual permits to practice previously issued under the laws of this state shall be entitled to practice public accounting and be known as certified public accountants and to use the designation "CPA" provided that these persons continue to hold permits to practice under this chapter:~~

(b)) Persons who held qualifications as licensed public accountants but who do not hold annual permits to practice on July 1, 1983, are not entitled to engage in the practice of public accounting under this chapter (~~(unless they meet the requirements imposed by this chapter for certified public accountants)~~). (~~(These)~~) No person(~~(s)~~) shall (~~(not)~~) use the term "licensed public accountant(~~(s)~~)" or the designation "LPA."

(9) A certificate of a "certified public accountant" under this chapter is issued on a biennial basis with renewal subject to requirements of continuing professional education and payment of fees, prescribed by the board.

(10) The board shall adopt rules providing for continuing professional education for certified public accountants. The rules shall:

(a) Provide that a certified public accountant holding a certificate on the effective date of this act shall verify to the board that he or she has completed at least ten days or an accumulation of eighty hours of continuing professional education during the last two-year period to maintain the certificate;

(b) Establish continuing professional education requirements;

(c) Establish when newly certificated public accountants shall verify that they have completed the required continuing professional education; and

(d) Establish proceedings for revocation, suspension, and reinstatement of certificates for failure to meet the continuing professional education requirement.

(11) Failure to furnish verification of the completion of the continuing professional education requirement constitutes grounds for revocation, suspension, or failure to renew the certificate, unless the board determines that the failure was due to reasonable cause or excusable neglect.

Sec. 7. Section 8, chapter 234, Laws of 1983 and RCW 18.04.185 are each amended to read as follows:

(1) Application for certification as certified public accountants by persons who are not residents of this state constitutes appointment of the secretary of state as an agent for service of process in any action or proceeding against the applicants arising from any transaction, activity, or operation connected with or incidental to the practice of public accounting in this state by nonresident holders of certified public accountant certificates.

(2) Application for a biennial ((~~permit~~)) license to practice public accounting in this state by a certified public accountant or CPA firm who holds a license or permit to practice issued by another state constitutes the appointment of the secretary of state as an agent for service of process in any action or proceeding against the applicant arising from any transaction or operation connected with or incidental to the practice of public accounting in this state by the holder of the biennial ((~~permit~~)) license to practice.

Sec. 8. Section 9, chapter 234, Laws of 1983 and RCW 18.04.195 are each amended to read as follows:

(1) A sole proprietorship engaged in this state in the practice of public accounting shall license biennially with the board as a firm.

(a) The principal purpose and business of the firm shall be to furnish services to the public which are consistent with this chapter and the rules of the board.

(b) The person shall be a certified public accountant holding a license to practice under RCW 18.04.215.

(c) Each resident licensee in charge of an office of the sole proprietorship engaged in this state in the practice of public accounting shall be a certified public accountant holding a license to practice under RCW 18.04.215.

(2) A partnership engaged in this state in the practice of public accounting shall ((~~register~~)) license biennially with the board as a partnership of certified public accountants, and shall meet the following requirements:

(a) The principal purpose and business of the partnership shall be to furnish services to the public which are consistent with this chapter and the rules of the board;

(b) At least one general partner of the partnership shall be a certified public accountant holding a ~~((permit))~~ license to practice under RCW 18.04.215;

(c) Each resident ~~((manager))~~ licensee in charge of an office of the partnership in this state and each resident partner personally engaged within this state in the practice of public accounting ~~((as a member in the office))~~ shall be a certified public accountant holding a ~~((permit))~~ license to practice under RCW 18.04.215.

~~((2))~~ (3) A corporation organized for the practice of public accounting and engaged in this state in the practice of public accounting shall ~~((register))~~ license biennially with the board as a corporation of certified public accountants and shall meet the following requirements:

(a) The principal purpose and business of the corporation shall be to furnish services to the public which are consistent with this chapter and the rules of the board; and

(b) Each shareholder of the corporation shall be a certified public accountant of some state holding a ~~((permit))~~ license to practice and shall be principally employed by the corporation or actively engaged in its business. No other person may have any interest in the stock of the corporation. The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation shall be a certified public accountant of some state holding a ~~((permit))~~ license to practice;

(c) At least one shareholder of the corporation shall be a certified public accountant holding a ~~((permit))~~ license to practice under RCW 18.04.215;

(d) Each resident ~~((manager))~~ licensee in charge of an office of the corporation in this state and each shareholder or director personally engaged within this state in the practice of public accounting shall be a certified public accountant holding a ~~((permit))~~ license to practice under RCW 18.04.215;

(e) A written agreement shall bind the corporation or its shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder, and bind any holder not a qualified shareholder to sell the shares to the corporation or its qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, as long as one share remains outstanding; and

(f) The corporation shall comply with any other rules pertaining to corporations practicing public accounting in this state as the board may prescribe.

~~((3))~~ (4) Application for ~~((registration of))~~ a license as a ~~((partnership or corporation))~~ firm shall be made upon the affidavit of ~~((a general))~~

the proprietor or person designated as managing partner or shareholder ~~((who is))~~ for Washington. This person shall be a certified public accountant holding a ~~((permit))~~ license to practice under RCW 18.04.215. The board shall determine in each case whether the applicant is eligible for ~~((registration))~~ a license. A partnership or corporation which is ~~((so registered and which holds a permit))~~ licensed to practice under RCW 18.04.215 may use the designation "certified public accountants" or "CPAs" in connection with its partnership or corporate name. The board shall be given notification within ~~((thirty))~~ ninety days after the admission or withdrawal of a partner or shareholder engaged in this state in the practice of public accounting from any partnership or corporation so ~~((registered))~~ licensed.

~~((4))~~ (5) Fees for the ~~((registration of partnerships or corporations))~~ license as a firm and for notification of the board of the admission or withdrawal of a partner or shareholder shall be determined by the board. Fees shall be paid by the ~~((applicant))~~ firm at the time the ~~((registration))~~ license application form or notice of admission or withdrawal of a partner or shareholder is filed with the board.

Sec. 9. Section 10, chapter 234, Laws of 1983 and RCW 18.04.205 are each amended to read as follows:

(1) Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, or a partnership or corporation of certified public accountants, shall register with the board under this chapter biennially.

(2) Each office shall be under the direct supervision of a resident ~~((manager))~~ licensee holding a ~~((permit))~~ license to practice under RCW 18.04.215 who may be ~~((either))~~ a sole proprietor, partner, principal shareholder, or a staff employee.

~~((2))~~ (3) The board shall by rule prescribe the procedure to be followed to register and maintain offices established in this state for the practice of public accounting.

~~((3))~~ (4) Fees for the registration of offices shall be determined by the board. Fees shall be paid by the applicant at the time the registration form is filed with the board.

Sec. 10. Section 11, chapter 234, Laws of 1983 and RCW 18.04.215 are each amended to read as follows:

(1) Biennial ~~((permits))~~ licenses to engage in the practice of public accounting in this state shall be issued by the board:

(a) To holders of certificates as certified public accountants who have demonstrated, in accordance with rules issued by the board, one year of public accounting experience, or such other experience or employment which the board in its discretion regards as substantially equivalent;

(b) To ~~((partnerships and corporations registered))~~ firms under RCW 18.04.195, if all offices of the ~~((partnerships and corporations))~~ firm in this state are maintained and registered as required under RCW 18.04.205.

(2) All ~~((permits))~~ licenses to practice ~~((for))~~ issued to persons born in an even-numbered year expire on the last day of June ~~((1984 shall be for one year and may be renewed for a period of two years))~~ of each even-numbered year. All ~~((permits))~~ licenses to practice ~~((for))~~ issued to persons born in an odd-numbered year expire on the last day of June ~~((1985 shall be for two years and may be renewed for a period of two years))~~ of each odd-numbered year. Renewals of ~~((permits))~~ licenses to practice issued to individuals under subsection (1) (a) ~~((or (b)))~~ of this section shall be issued in accordance with subsection ~~((3))~~ (4) of this section. Applicants for issuance or renewal of ~~((permits))~~ licenses shall, at the time of filing their applications, list with the board all states in which they hold or have applied for permits or licenses to practice.

~~((2))~~ (3) A certified public accountant who holds a permit or license issued by another state, and applies for a ~~((permit))~~ license in this state, may practice ~~((accounting))~~ in this state from the date of filing a completed application with the board, until the board has acted upon the application.

~~((3))~~ (4) As a prerequisite to renewal of a ~~((permit))~~ license, a person practicing public accounting shall submit to the ~~((Washington state))~~ board ~~((of accountancy))~~ satisfactory proof of having completed ten days or an accumulation of eighty hours of continuing education recognized and approved by the board during the preceding two years. Failure to furnish this evidence as required constitutes grounds for revocation, suspension, or refusal to renew the ~~((permit))~~ license in a proceeding under RCW 18.04.295, unless the board determines the failure to have been due to reasonable cause or excusable neglect.

The board~~((;))~~ in its discretion~~((;))~~ may renew a biennial ~~((permit))~~ license to practice despite failure to furnish evidence of compliance with requirements of continuing professional education upon condition that the applicant follow a particular program of continuing professional education. In issuing rules and individual orders with respect to continuing professional education requirements, the board, among other considerations, may rely upon guidelines and pronouncements of recognized educational and professional associations, may prescribe course content, duration, and organization, and ~~((shall))~~ may take into account the accessibility of continuing education to applicants and instances of individual hardship.

~~((4))~~ (5) Fees for biennial ~~((permits))~~ licenses to engage in the practice of public accounting in this state shall be determined by the board under chapter 18.04 RCW. Fees shall be paid by the applicant at the time the ~~((registration))~~ application form is filed with the board. The board, by rule, may provide for proration of fees for licenses issued between normal renewal dates.

Sec. 11. Section 12, chapter 234, Laws of 1983 and RCW 18.04.295 are each amended to read as follows:

~~((After notice and hearing as provided in RCW 18.04.320, the board may revoke or suspend any certificate issued under RCW 18.04.105, or may revoke, suspend, or refuse to renew any permit to practice, or may censure the holder of a permit for one or a combination))~~ The board of accountancy shall have the power to revoke, suspend, or refuse to renew the license of any certified public accountant for any of the following causes:

(1) ~~Fraud or deceit in obtaining a certificate as a certified public accountant, ((or in obtaining registration under this act,)) or in obtaining a ((permit)) license to practice public accounting under RCW 18.04.215;~~

(2) Dishonesty, fraud, or ~~((gross))~~ negligence in the practice of public accounting;

(3) A violation of any provision of this ~~((act))~~ chapter;

(4) A violation of a rule of professional conduct promulgated by the board under the authority granted by this ~~((act))~~ chapter;

(5) Conviction of a crime or an act constituting a crime under:

(a) The laws of this state;

(b) The laws of another state, and which, if committed within this state, would have constituted a crime under the laws of this state; or

(c) Federal law;

(6) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant by any other state for any cause other than failure to pay a fee or to meet the requirements of continuing education in the other state;

(7) Suspension or revocation of the right to practice before any state or federal agency~~((or))~~.

Sec. 12. Section 13, chapter 234, Laws of 1983 and RCW 18.04.305 are each amended to read as follows:

~~((After notice and hearing under RCW 18.04.320, the board shall revoke the registration issued to a partnership or corporation under RCW 18.04.195 and permit to practice issued to a partnership or corporation under RCW 18.04.215 if at any time the partnership or corporation does not have all the qualifications prescribed under this chapter for registration. After notice and hearing as provided in RCW 18.04.320, the board may revoke or suspend the registration of a partnership or corporation, may revoke, suspend, or refuse to renew its permit to practice))~~ The board of accountancy may revoke, suspend, or refuse to renew the license issued to a firm if at any time the firm does not meet the requirements of this chapter for licensing, or for any of the causes enumerated in RCW 18.04.295, or for any of the following additional causes:

(1) The revocation or suspension of the certificate as a certified public accountant or the revocation or suspension or refusal to renew the ~~((per-))~~ mit)) license of any partner or shareholder; or

(2) The ~~((cancellation;))~~ revocation, suspension, or refusal to renew the ((authority)) license or permit of the ((partnership or corporation)) firm, or

any partner or shareholder thereof, to practice public accounting in any other state for any cause other than failure to pay a fee or to meet the requirements of continuing professional education in the other state.

Sec. 13. Section 31, chapter 226, Laws of 1949 as amended by section 14, chapter 234, Laws of 1983 and RCW 18.04.320 are each amended to read as follows:

~~((1) Proceedings for))~~ In the case of the refusal, revocation, or suspension of ((the certificate, permit, or registration of any person, partnership, or corporation may be initiated)) a certificate or a license by the board ((on its own motion, on the complaint of any person, or on receiving notification from another state board of accountancy of its decision to:

~~(a) Revoke or suspend practice privileges granted in that state to a holder of a certified public accountant certificate or a public accountant registrant of that state, or~~

~~(b) Revoke, suspend, refuse to renew, or censure the holder of a permit to practice in that state who holds a permit to practice under RCW 18.04.215;~~

~~(2) Unless the charge or charges are dismissed by the board as unfounded or trivial, the board shall set a date for hearing not later than ninety days after formal charges are filed. A copy of the charge or charges, together with a notice of the time and place of hearing before the board shall be served not less than thirty days prior to the date set for hearing on the accused either personally or by mailing a copy thereof by registered mail to the address of the accused last known to the board;~~

~~(3) If after having been so served with a notice of hearing, the accused fails to appear at the hearing, the board may proceed to hear evidence against him and may enter such order as may be justified by the evidence, which shall be final unless the accused petitions for a review thereof. Within thirty days from the date of any such order upon a showing of good cause for failing to appear, the board may reopen the proceedings and may permit the accused to submit evidence in his or her behalf;~~

~~(4) At any hearing the accused may appear in person and by counsel; may produce evidence and witnesses on his or her own behalf, and may cross-examine such witnesses as may appear against him. A partnership may be represented before the board by counsel or by a partner. A corporation may be represented before the board by counsel or by a shareholder. The accused shall be entitled on application to the board to the issuance of subpoenas to compel the attendance of witnesses and the production of evidence on his or her behalf;~~

~~(5) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proofs, and receive exhibits in evidence in connection with or upon hearing under this chapter. To compel obedience~~

~~to a subpoena the board may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of documentary evidence;~~

~~(6) The board shall not be bound by technical rules of evidence;~~

~~(9) The decision of the board shall be by majority vote;~~

~~(10) Any person adversely affected by any action of the board may obtain a review thereof by filing a written petition for review in the superior court of the county in which he resides within thirty days after the entry of such order. A copy of the petition shall be served upon any member of the board and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. The court will hear the matter de novo, and may sustain, modify, or set aside the board's order in whole or in part, or may remand the matter to the board for further action, and may, in its discretion, stay the effect of the board's order pending its determination of the case. The court's decision has the force and effect of a decree in equity; and~~

~~(11) On rendering a decision to: (a) Revoke or suspend a certificate issued under RCW 18.04.105; (b) revoke or suspend a registration issued under RCW 18.04.195; or (c) revoke, suspend, refuse to renew, or censure the holder of a permit to practice under RCW 18.04.215, the board shall examine its records to determine whether the accused holds a certificate, a registration, or a permit or annual limited permit to practice in any other state. If the board determines that the accused holds a certificate, or a registration in any other state, the board shall notify the board of accountancy of the other state of its decision by mail within thirty days of rendering the decision)) under the provisions of this chapter, such proceedings and any appeal therefrom shall be taken in accordance with the administrative procedure act, chapter 34.04 RCW.~~

Sec. 14. Section 15, chapter 234, Laws of 1983 and RCW 18.04.335 are each amended to read as follows:

Upon application in writing and after hearing pursuant to notice, the board may:

(1) Reissue a certificate to a certified public accountant whose certificate has been revoked or suspended; or

(2) Modify the suspension of or reissue any ((permit)) license to practice which has been revoked, suspended, or which the board has refused to renew.

Sec. 15. Section 16, chapter 234, Laws of 1983 and RCW 18.04.345 are each amended to read as follows:

(1) No person may hold himself or herself out to the public, or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant or CPA unless the person has received a certificate as a certified public accountant, holds a

valid ((~~permit~~)) license to practice under RCW 18.04.215, and all of the person's offices in this state for the practice of public accounting are maintained and registered under RCW 18.04.205.

(2) No ((~~partnership or corporation~~)) firm may hold itself out to the public, or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the ((~~partnership or corporation~~)) firm is composed of certified public accountants or CPAs, unless the ((~~partnership or corporation~~)) firm is ((~~registered as a partnership or corporation of certified public accountants~~)) licensed under RCW 18.04.195, holds a valid ((~~permit~~)) license to practice under RCW 18.04.215, and all offices of the ((~~partnership or corporation~~)) firm in this state for the practice of public accounting are maintained and registered under RCW 18.04.205.

(3) No person, partnership, or corporation may hold himself, herself, or itself out to the public, or assume or use along, or in connection with his, hers, or its name, or any other name the title or designation "certified accountant," "chartered accountant," ((~~"enrolled accountant,"~~)) "licensed accountant," ((~~"registered accountant," "accredited accountant,"~~)) "public accountant," or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA," ((~~"EA," "RA,"~~)) "LA," ((~~"AA,"~~)) or "PA," or similar abbreviations likely to be confused with "CPA." However, nothing in this chapter prohibits use of the title "accountant" by any person regardless of whether the person has been granted a certificate or holds a ((~~permit~~)) license under this chapter.

(4) No person may sign, affix, or associate his or her name or any trade or assumed name used by the person in his or her business to any report designated as an "audit," "review," or "compilation," unless the person holds a biennial ((~~permit~~)) license to practice under RCW 18.04.215 and all of the person's offices in this state for the practice of public accounting are maintained and ((~~registered~~)) licensed under RCW 18.04.205.

(5) No person may sign, affix, or associate a ((~~partnership or corporate~~)) firm name to any report designated as an "audit," "review," or "compilation," unless the ((~~partnership or corporation~~)) firm is ((~~registered~~)) licensed under RCW 18.04.195((~~, holds a permit to practice under RCW~~)) and 18.04.215, and all of its offices in this state for the practice of public accounting are maintained and registered under RCW 18.04.205.

(6) No person, partnership, or corporation not holding a ((~~permit~~)) license to practice under RCW 18.04.215 may hold himself, herself, or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

(7) Nothing contained in this chapter prohibits any person who is the holder of a valid certified public accountant certificate from assuming or using the designation "certified public accountant" or "CPA" or any other

title, designation, words, letters, sign, card, or device tending to indicate that the person is a certified public accountant.

(8) No person may assume or use the designation "certified public accountant" or "CPA" in conjunction with names indicating or implying that there is a partnership or corporation, (~~or in conjunction with the designation "and Company" or "and Co." or a similar designation;~~) if there is in fact no bona fide partnership or corporation registered under RCW 18.04.195.

(9) No person, partnership, or corporation holding a ((~~permit~~)) license under RCW 18.04.215 may hold himself, herself, or itself out to the public in conjunction with the designation "and Associates" or "and Assoc." unless he or she has in fact a partner or employee who holds a ((~~permit~~)) license under RCW 18.04.215.

(10) No person, partnership, or corporation may hold himself, herself, or itself out to the public for the practice of public accounting unless the person, partnership, or corporation holds a ((~~permit~~)) license to practice under RCW 18.04.215 and all of his or its offices in this state are maintained and registered under RCW 18.04.205.

Sec. 16. Section 34, chapter 226, Laws of 1949 as last amended by section 17, chapter 234, Laws of 1983 and RCW 18.04.350 are each amended to read as follows:

(1) Nothing in this chapter prohibits any person not a certified public accountant from serving as an employee of, or as assistant to, a certified public accountant or partnership composed of certified public accountants or corporation of certified public accountants holding a valid ((~~permit~~)) license under RCW 18.04.215. However, the employee or assistant shall not issue any accounting or financial statement over his or her name.

(2) Nothing in this chapter prohibits a certified public accountant registered in another state, or any accountant of a foreign country holding a certificate, degree or license which permits him to practice therein from temporarily practicing in this state on professional business incident to his regular practice.

(3) Nothing in this chapter prohibits a certified public accountant, a partnership, or corporation of certified public accountants, or any of their employees from disclosing any data in confidence to other certified public accountants, peer review teams, partnerships, or corporations of public accountants engaged in conducting peer reviews, or any one of their employees in connection with peer reviews of that accountant's accounting and auditing practice conducted under the auspices of recognized professional associations.

(4) Nothing in this chapter prohibits a certified public accountant, a partnership, or corporation of certified public accountants, or any of their

employees from disclosing any data in confidence to any employee, representative, officer, or committee member of a recognized professional association, or to the board of accountancy, or any of its employees or committees in connection with a professional ((ethics)) investigation held under the auspices of recognized professional associations or the board of accountancy.

(5) Nothing in this chapter prohibits any officer, employee, partner, or principal of any organization:

(a) From affixing his or her signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization; or

(b) From describing himself or herself by the position, title, or office he or she holds in such organization.

(6) Nothing in this chapter prohibits any person, or partnership or corporation composed of persons not holding a ((permit)) license under RCW 18.04.215 from offering or rendering to the public bookkeeping, accounting, and tax services, including devising and installing systems, financial information or data, or preparing financial statements, written statements describing how such financial statements were prepared, or similar services, provided that persons, partnerships, or corporations not holding a ((permit)) license under RCW 18.04.215 who offer or render these services do not designate any written statement as an "audit report," "review report," or "compilation report," do not issue any written statement which purports to express or disclaim an opinion on financial statements which have been audited, and do not issue any written statement which expresses assurance on financial statements which have been reviewed.

(7) Nothing in this chapter prohibits any act of or the use of any words by a public official or a public employee in the performance of his or her duties.

Sec. 17. Section 37, chapter 226, Laws of 1949 as amended by section 20, chapter 234, Laws of 1983 and RCW 18.04.380 are each amended to read as follows:

The display or presentation by a person of a card, sign, advertisement, or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "licensed public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under this chapter that the person whose name is so displayed, caused or procured the display or presentation of the card, sign, advertisement, or other printed, engraved, or written instrument or device, and that the person is holding himself or herself out to be a certified public accountant or a public accountant holding a ((permit)) license to practice under this chapter. In any such action, evidence of the commission of a single act prohibited by this chapter is sufficient to justify

an injunction or a conviction without evidence of a general course of conduct.

Sec. 18. Section 38, chapter 226, Laws of 1949 as amended by section 21, chapter 234, Laws of 1983 and RCW 18.04.390 are each amended to read as follows:

(1) In the absence of an express agreement between the certified public accountant and the client to the contrary, all statements, records, schedules, working papers, and memoranda made by a certified public accountant incident to or in the course of professional service to clients, except reports submitted by a certified public accountant to a client, are the property of the certified public accountant.

(2) No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed without the consent of the client or his or her personal representative or assignee, to anyone other than one or more surviving partners, shareholders, or new partners or new shareholders of the accountant or corporation, or any combined or merged partnership or corporation, or successor in interest (~~to the partnership or corporation~~).

(3) A licensee shall furnish to his or her client or former client, upon request and reasonable notice:

(a) A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(b) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of such documents of the client when they form the basis for work done by him or her.

Sec. 19. Section 23, chapter 234, Laws of 1983 and RCW 18.04.405 are each amended to read as follows:

(1) A certified public accountant, a partnership or corporation of certified public accountants, or any of their employees shall not disclose any confidential information obtained in the course of a professional transaction except with the consent of the client or former client or as disclosure may be required by law, legal process, the standards of the profession, or as disclosure of confidential information is permitted by RCW 18.04.350 (~~((2))~~) (3) and (~~((3))~~) (4) in connection with peer reviews and (~~(ethics)~~) investigations.

(2) This section shall not be construed as limiting the authority of this state or of the United States or an agency of this state or of the United States to subpoena and use such information in connection with any investigation, public hearing, or other proceeding, nor shall this section be construed as prohibiting a certified public accountant whose professional

competence has been challenged in a court of law or before an administrative agency from disclosing confidential information as a part of a defense to the court action or administrative proceeding.

Sec. 20. Section 34, chapter 234, Laws of 1983 and RCW 18.04.901 are each amended to read as follows:

If any provision of this ~~((act))~~ chapter or its application to any person or circumstance is held invalid, the remainder of the ~~((act))~~ chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

- (1) Section 30, chapter 234, Laws of 1983 and RCW 43.131.311; and
- (2) Section 31, chapter 234, Laws of 1983 and RCW 43.131.312.

Sec. 22. Section 1, chapter 234, Laws of 1983 and RCW 18.04.920 are each amended to read as follows:

This chapter may be cited as the public accountancy act ~~((of 1983))~~.

NEW SECTION. Sec. 23. RCW 18.04.930, 18.04.931, 18.04.932, 18.04.933, and 18.04.934 are each decodified.

NEW SECTION. Sec. 24. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1986, except as provided in this section. Section 5 of this act shall not become effective if sections 90(1) and 4 of Engrossed Substitute House Bill No. 1758 become law.

Passed the Senate March 12, 1986.

Passed the House March 12, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 5, Engrossed Senate Bill No. 4725, entitled:

"AN ACT Relating to accountancy."

The intent of the new language in section 5 is to create a new fund in the state treasury for receipt of all fees collected by the Board of Accountancy. Unfortunately, the new account is not properly created. Additionally, there is no appropriation from the new account. If this language is not vetoed, all the fees which currently go into the Certified Public Accountant Examination Account would be diverted to the new account. Because the account is improperly created and there is no appropriation, failure to veto this section would leave the Board without operating funds. For these reasons, I am vetoing section 5.

With the exception of section 5, Engrossed Senate Bill No. 4725 is approved."

CHAPTER 296

[Engrossed Senate Bill No. 3636]

INSURANCE—PREMIUM TAX—OFFICE OF INSURANCE COMMISSIONER
OPERATING COST, SHARE OF COST CHARGED TO INSURERS

AN ACT Relating to insurance; amending RCW 48.14.020, 48.14.025, 41.16.050, 41.24.030, 82.02.030, 48.44.145, and 48.46.120; adding a new section to chapter 48.02 RCW; creating new sections; repealing RCW 48.14.015; providing an effective date; and declaring an emergency.

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

Sec. 1. Section .14.02, chapter 79, Laws of 1947 as last amended by section 7, chapter 3, Laws of 1983 2nd ex. sess. and RCW 48.14.020 are each amended to read as follows:

(1) Subject to other provisions of this chapter, each authorized insurer except title insurers shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection (2) of this section, such tax shall be in the amount of two ~~((and sixteen one-hundredths))~~ percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer during the preceding calendar year ~~((in the case of foreign and alien insurers, and in the amount of one and sixteen one-hundredths percent of all such premiums in the case of domestic insurers, for direct insurances;))~~ other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For the purposes of this section the consideration received by an insurer for the granting of an annuity shall not be deemed to be a premium.

(2) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the form of premiums or premium deposits which are the same in amount, based on the character of the risks, regardless of the length of term for which such policies are written, such tax shall be in the amount of two ~~((and sixteen one-hundredths))~~ percent of the gross amount of such premiums and premium deposits upon policies on risks resident, located, or to be performed in this state, in force as of the thirty-first day of December next preceding, less the unused or unabsorbed portion of such premiums and premium deposits computed at the average rate thereof actually paid or credited to policyholders or applied in part payment of any renewal premiums or premium deposits on one-year policies expiring during such year.

(3) ~~((An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the taxes payable under subsections (1), (2), and~~

~~(4) of this section. All revenues from this additional tax shall be deposited in the state general fund:~~

(4)) Each authorized insurer shall with respect to all ocean marine and foreign trade insurance contracts written within this state during the preceding calendar year, on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax of ~~((ninet~~~~ty-one))~~ ninety-five one-hundredths of one percent on its gross underwriting profit. Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such ocean marine and foreign trade insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amounts refunded, or paid as participation dividends, by such insurers to the holders of such contracts.

~~((5))~~ (4) The state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their agents, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or their agents.

~~((6))~~ (5) If an authorized insurer collects or receives any such premiums on account of policies in force in this state which were originally issued by another insurer and which other insurer is not authorized to transact insurance in this state on its own account, such collecting insurer shall be liable for and shall pay the tax on such premiums.

~~((7) This section shall be effective as to and shall govern the payment of all taxes due for calendar year 1982 and thereafter:))~~

Sec. 2. Section 1, chapter 6, Laws of 1981 as amended by section 4, chapter 181, Laws of 1982 and RCW 48.14.025 are each amended to read as follows:

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

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

(3) The minimum amounts of the prepayments shall be percentages of the insurer's preceding calendar year's tax obligation ~~((based on the preceding calendar year's business))~~ recomputed using the rate in effect for the current year and shall be paid to the state treasurer through the commissioner's office by the due dates and in the following amounts:

(a) On or before June 15, forty-five percent;

(b) On or before September 15, twenty-five percent; and

(c) On or before December 15, twenty-five percent.

For good cause demonstrated in writing, the commissioner may approve an amount smaller than the preceding calendar year's (~~business-as-the-base~~) tax obligation as recomputed for calculating the insurer's prepayment obligations.

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

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

Sec. 3. Section 5, chapter 91, Laws of 1947 as last amended by section 16, chapter 35, Laws of 1982 1st ex. sess. and RCW 41.16.050 are each amended to read as follows:

There is hereby created and established in the treasury of each municipality a fund which shall be known and designated as the firemen's pension fund, which shall consist of: (1) All bequests, fees, gifts, emoluments or donations given or paid thereto; (2) forty-five percent of all moneys received by the state from taxes on fire insurance premiums(~~(, except any such moneys received under RCW 48.14.020(3))~~); (3) taxes paid pursuant to the provisions of RCW 41.16.060; (4) interest on the investments of the fund; and (5) contributions by firemen as provided for herein. The (~~forty-five percent of~~) moneys received from the tax on fire insurance premiums under the provisions of this chapter shall be distributed in the proportion that the number of paid firemen in the city, town or fire protection district bears to the total number of paid firemen throughout the state to be ascertained in the following manner: The secretary of the firemen's pension board of each city, town and fire protection district now or hereafter coming under the provisions of this chapter shall within thirty days after (~~the taking effect of this 1961 amendatory act~~) June 7, 1961, and on or before the fifteenth day of January thereafter, certify to the state treasurer the number of paid firemen in the fire department in such city, town or fire protection district. The state treasurer shall on or before the first day of June of each year deliver to the treasurer of each city, town and fire protection district coming under the provisions of this chapter his warrant, payable to each city, town or fire protection district for the amount due such city, town or fire protection district ascertained as herein provided and the treasurer of each such city, town or fire protection district shall place the amount thereof to the credit of the firemen's pension fund of such city, town or fire protection district.

Sec. 4. Section 3, chapter 261, Laws of 1945 as last amended by section 17, chapter 35, Laws of 1982 1st ex. sess. and RCW 41.24.030 are each amended to read as follows:

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

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

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

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

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

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

(4) Forty percent of all moneys received by the state from taxes on fire insurance premiums (~~(, except any such moneys received under RCW 48.14.020(3);~~) shall be paid into the state treasury and credited to the fund.

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

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

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

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

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

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

Sec. 5. Section 31, chapter 35, Laws of 1982 1st ex. sess. as last amended by section 9, chapter 471, Laws of 1985 and RCW 82.02.030 are each amended to read as follows:

(1) The rate of the additional taxes under RCW 54.28.020(2), 54.28.025(2), 66.24.210(2), 66.24.290(2), 82.04.2901, 82.16.020(2), 82.26.020(2), 82.27.020(5), 82.29A.030(2), 82.44.020(5), and 82.45.060(2) shall be seven percent;

(2) The rate of the additional taxes under RCW 82.08.150(4) shall be fourteen percent; and

(3) The rate of the additional taxes under RCW 82.24.020(2) shall be fifteen percent(~~;~~ and

~~(4) The rate of the additional taxes under RCW 48.14.020(3) shall be four percent)).~~

****NEW SECTION. Sec. 6. It is the intent of the legislature that the fees charged in section 7 of this act shall be used to increase and improve the staff of the insurance commissioner. The legislature finds that this increase and improvement in staff is necessary to properly regulate the insurance industry and protect the insurance consumers of Washington state. The increases and improvements in staff shall be determined through the legislative appropriation process and shall be funded by section 7 of this act.***

*Sec. 6 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 7. A new section is added to chapter 48.02 RCW to read as follows:

(1) As used in this section:

(a) "Organization" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do business in this state and every health care service contractor registered to do business in this state. "Class one" organizations shall consist of all insurers as defined in RCW 48.01.050. "Class two" organizations shall consist of all organizations registered under provisions of chapter 48.44 RCW.

(b) "Receipts" means (i) net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021, and (ii) prepayments to health care service contractors as set forth in RCW 48.44.010(3) less experience rating credits, dividends, prepayments returned to subscribers, and payments for contracts not taken.

(2) The annual cost of operating the office of insurance commissioner shall be determined by legislative appropriation. A pro rata share of the cost shall be charged to all organizations. Each class of organization shall contribute sufficient in fees to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.

(3) Fees charged shall be calculated separately for each class of organization. The fee charged each organization shall be that portion of the cost of operating the insurance commissioner's office, for that class of organization, for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received by all organizations within that class on business in this state during the previous calendar year: **PROVIDED**, That the fee shall not exceed one-eighth of one percent of receipts: **PROVIDED FURTHER**, That the minimum fee shall be one thousand dollars.

(4) The commissioner shall annually, on or before June 1, calculate and bill each organization for the amount of its fee. Fees shall be due and payable no later than June 15 of each year: **PROVIDED**, That if the necessary financial records are not available or if the amount of the legislative appropriation is not determined in time to carry out such calculations and bill such fees within the time specified, the commissioner may use the fee factors for the prior year as the basis for the fees and, if necessary, the commissioner may impose supplemental fees to fully and properly charge the organizations. The penalties for failure to pay fees when due shall be the same as the penalties for failure to pay taxes pursuant to RCW 48.14.060. The fees required by this section are in addition to all other taxes and fees now imposed or that may be subsequently imposed. The commissioner shall report fees to the legislative committees responsible for insurance and appropriations concurrent with notification to the organizations.

(5) All moneys collected shall be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.

(6) Unexpended funds in the insurance commissioner's regulatory account at the close of a fiscal year shall be carried forward in the insurance commissioner's regulatory account to the succeeding fiscal year and shall be used to reduce future fees.

Sec. 8. Section 12, chapter 115, Laws of 1969 as amended by section 1, chapter 63, Laws of 1983 and RCW 48.44.145 are each amended to read as follows:

(1) The commissioner may make an examination of the operations of any health care service contractor as often as he deems necessary in order to carry out the purposes of this chapter.

(2) Every health care service contractor shall submit its books and records relating to its operation for financial condition and market conduct

examinations and in every way facilitate them. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the health care service contractor.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the health care service contractor in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his report of the examination.

~~(4) ((Health care service contractors licensed in the state shall be equitably assessed to cover the cost of financial condition and market conduct examinations. The assessments shall be levied not less frequently than once every twelve months and shall be in an amount expected to fund the examinations, including a reasonable margin for cost variations. The assessments shall be established by rules promulgated by the commissioner but shall not exceed one-half cent per month per person entitled to health care services pursuant to an agreement under RCW 48.44.020(1), excluding such persons who are not residents of this state. Assessment receipts shall be deposited in the general fund, shall be accounted for separately, and shall be used for the sole purpose of funding the examinations authorized in subsection (1) of this section. Amounts remaining in the separate account at the end of a biennium shall be applied to reduce the assessments in the succeeding biennium.~~

(5)) Whenever any health care service contractor applies for initial admission, the commissioner may make, or cause to be made, an examination of the applicant's business and affairs. Whenever such an examination is made, all of the provisions of chapter 48.03 RCW not inconsistent with this chapter shall be applicable. In lieu of making an examination himself the commissioner may, in the case of a foreign health care service contractor, accept an examination report of the applicant by the regulatory official in its state of domicile.

Sec. 9. Section 13, chapter 290, Laws of 1975 1st ex. sess. as last amended by section 115, chapter 7, Laws of 1985 and RCW 48.46.120 are each amended to read as follows:

(1) The commissioner may make an examination of the operations of any health maintenance organization as often as he deems necessary in order to carry out the purposes of this chapter.

(2) Every health maintenance organization shall submit its books and records relating its operation for financial condition and market conduct examinations and in every way facilitate them. The quality or appropriateness of medical services or systems shall not be examined except to the extent that such items are incidental to an examination of the financial condition or the market conduct of a health maintenance organization. For

the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the health maintenance organization and the principals of such providers concerning their business.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the health maintenance organization in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his report of the examination.

(4) Health maintenance organizations licensed in the state shall be equitably assessed to cover the cost of financial condition and market conduct examinations, the costs of promulgating rules, and the costs of enforcing the provisions of this chapter. The assessments shall be levied not less frequently than once every twelve months and shall be in an amount expected to fund the examinations, promulgation of rules, and enforcement of the provisions of this chapter, including a reasonable margin for cost variations. The assessments shall be established by rules promulgated by the commissioner but shall not exceed five and one-half cents per month per person entitled to health care services pursuant to a health maintenance agreement, excluding such persons who are not residents of this state. Assessment receipts shall be deposited in the general fund, shall be accounted for separately, and shall be used for the sole purpose of funding the examinations authorized in subsection (1) of this section, the costs of promulgating rules, and the costs of enforcing the provisions of this chapter. Amounts remaining in the separate account at the end of a biennium shall be applied to reduce the assessments in the succeeding biennium.

NEW SECTION. Sec. 10. Section 35, chapter 9, Laws of 1982 1st ex. sess. and RCW 48.14.015 are each repealed.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. Section 1 of this act applies to the payment of taxes due beginning July 1, 1986, and thereafter.

NEW SECTION. Sec. 13. Section 7 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support

of the state government and its existing institutions, and shall take effect immediately. The remainder of this act shall take effect July 1, 1986.

Passed the Senate February 11, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 6, Engrossed Senate Bill No. 3636, entitled:

"AN ACT Relating to insurance."

This legislation accomplishes two things: it equalizes the premium tax rates between domestic and foreign insurers, and it provides a mechanism so that the Office of the Insurance Commissioner is funded by fees collected from the entities regulated by the Commissioner.

Section 6 states the purpose for imposing the fees is to "increase and improve the staff of the insurance commissioner." While it is certainly a top priority to ensure that the Commissioner has increased staff to properly regulate insurance companies in this time of increasing rates, the move to self-fund the office was not solely for the purposes stated in section 6. The funds provided by the fees imposed on commercial insurers, health care service contractors and health maintenance organizations will be the sole basis of funding the existing staff as well as any new staff authorized by the Legislature. For this reason, I have vetoed section 6 of Engrossed Senate Bill No. 3636.

With the exception of section 6, Engrossed Senate Bill No. 3636 is approved."

CHAPTER 297

[Engrossed Substitute Senate Bill No. 4790]

SLUDGE

AN ACT Relating to sludge; and adding a new section to chapter 70.95 RCW.

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

***NEW SECTION.** Sec. 1. A new section is added to chapter 70.95 RCW to read as follows:

After January 1, 1988, the department of ecology may prohibit disposal of municipal sewage sludge or septic tank sludge (septage) in landfills for final disposal, except on a temporary, emergency basis, if the jurisdictional health department determines that a potentially unhealthful circumstance exists. Beneficial uses of sludge in landfill reclamation is acceptable utilization and not considered disposal.

The department of ecology shall adopt rules that provide exemptions from this section on a case-by-case basis. Exemptions shall be based on the economic infeasibility of using or disposing of the sludge material other than in a landfill.

The department of ecology, after consulting with representatives from cities, counties, special purpose districts, and operators of septic tank pump-

out services, shall adopt rules for the environmentally safe use of municipal sewage sludge and septage in this state.

The department of ecology, after consulting with representatives from the pulp and paper industry and the food processing industry, may adopt rules for the environmentally safe use of appropriate industrial sludges, such as pulp and paper sludges or food processing wastes, used to improve the texture or nutrient content of soils.

The department of ecology, in conjunction with the department of social and health services and the department of agriculture, shall adopt rules establishing labeling and notification requirements for sludge material sold commercially or given away to the public. The department shall specify mandatory wording for labels and notification to warn the public against improper use of the material. ***The department shall submit a report to the appropriate standing committees of the legislature by January 1, 1987, on its implementation of this chapter.***

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

Passed the Senate March 9, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to one portion, Engrossed Substitute Senate Bill No. 4790, entitled:

"AN ACT Relating to sludge."

The last sentence of this bill requires the Department of Ecology to submit a report to the Legislature by January 1, 1987, regarding its implementation of "this chapter."

Although it appears that the intent of this language is to require a report on the implementation of this bill, the language legally requires a report on the entire Solid Waste Management chapter of the State Code.

To avoid any confusion, I have vetoed this sentence and have directed the Department to report to the Legislature by next January 1 regarding implementation of the bill.

With the exception of this sentence, Engrossed Substitute Senate Bill No. 4790 is approved."

CHAPTER 298

[Engrossed Second Substitute Senate Bill No. 4626]

HOUSING TRUST FUND—HOUSING ASSISTANCE FOR LOW-INCOME PERSONS

AN ACT Relating to the housing trust fund; and adding a new chapter to Title 43 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of low and very low-income persons to obtain safe, decent, and affordable housing.

The legislature further finds that members of over one hundred twenty thousand households live in housing units which are overcrowded, lack plumbing, are otherwise threatening to health and safety, and have rents and utility payments which exceed thirty percent of their income.

The legislature further finds that minorities, rural households, and migrant farm workers require housing assistance at a rate which significantly exceeds their proportion of the general population.

The legislature further finds that one of the most dramatic housing needs is that of persons needing special housing-related services, such as the mentally ill, recovering alcoholics, frail elderly persons, and single parents. These services include medical assistance, counseling, chore services, and child care.

The legislature further finds that housing assistance programs in the past have often failed to help those in greatest need.

The legislature declares that it is in the public interest to establish a continuously renewable resource known as a housing trust fund to assist low and very low-income citizens in meeting their basic housing needs, and that the needs of very low-income citizens should be given priority.

NEW SECTION. Sec. 2. There is hereby created a fund in the office of the treasurer known as the Washington housing trust fund. The treasurer shall serve as the trustee thereof and shall make disbursements therefrom as directed by this chapter. The housing trust fund shall include revenue from the sources established by this chapter, appropriations by the legislature, private contributions, and all other sources.

NEW SECTION. Sec. 3. "Department" means the department of community development. "Director" means the director of the department of community development.

***NEW SECTION.** Sec. 4. *The treasurer shall transfer to the department upon the request of the director such funds as may be immediately necessary to implement the purposes of this chapter. Such transfers shall be made from the housing trust fund established by section 2 of this act.*

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

NEW SECTION. Sec. 5. The treasurer, as trustee, shall invest housing trust fund revenues in investment instruments as part of the portfolio it manages for state funds.

NEW SECTION. Sec. 6. (1) The department shall use funds from the housing trust fund to finance in whole or in part any loans or grant projects that will provide housing for persons and 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. Not less than thirty percent of such funds used in any given biennium shall be for the benefit of projects located in rural areas as defined in 63 Stat. 432, 42 U.S.C. Sec. 1471 et seq.

(2) Activities eligible for assistance include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies in new construction or rehabilitated multifamily units;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless;

(g) Mortgage subsidies for new construction or rehabilitation of eligible multifamily units;

(h) Mortgage insurance guarantee or payments for eligible projects; and

(i) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing.

NEW SECTION. Sec. 7. Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or state-wide nonprofit housing assistance organizations.

NEW SECTION. Sec. 8. (1) During each calendar year in which funds are available for use by the department from the housing trust fund, as prescribed in section 2 of this act, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources, but at least twice annually. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department, not to exceed five percent of annual revenues to the fund.

(2) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities. Such projects and activities shall be evaluated under subsection (3) of this section. Second priority shall be given to activities and

projects which utilize existing publicly owned housing stock. Such projects and activities shall be evaluated under subsection (3) of this section.

(3) The department shall give preference for applications based on the following criteria:

- (a) The degree of leveraging of other funds that will occur;
- (b) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;
- (c) Local government project contributions in the form of infrastructure improvements, and others;
- (d) Projects that encourage ownership, management, and other project-related responsibility opportunities;
- (e) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least fifteen years;
- (f) The applicant has the demonstrated ability, stability and resources to implement the project;
- (g) Projects which demonstrate serving the greatest need; and
- (h) Projects that provide housing for persons and families with the lowest incomes.

NEW SECTION. Sec. 9. (1) The department may use moneys from the housing trust fund to provide preconstruction technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low and low-income persons. The department shall emphasize providing preconstruction technical assistance services to rural areas and small cities and towns. The department may contract with nonprofit organizations to provide this technical assistance. The department may contract for any of the following services:

- (a) Financial planning and packaging for housing projects, including alternative ownership programs, such as limited equity partnerships and syndications;
- (b) Project design, architectural planning, and siting;
- (c) Compliance with planning requirements;
- (d) Securing matching resources for project development;
- (e) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, locally and state-managed funds, zoning variances, or creative local planning;
- (f) Coordination with local planning, economic development, and environmental, social service, and recreational activities;
- (g) Construction and materials management; and
- (h) Project maintenance and management.

(2) The department shall publish requests for proposals which specify contract performance standards, award criteria, and contractor requirements. In evaluating proposals, the department shall consider the ability of

the contractor to provide technical assistance to low and very low-income persons and to persons with special housing needs.

NEW SECTION. Sec. 10. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan.

NEW SECTION. Sec. 11. The department shall have the authority to promulgate rules pursuant to chapter 34.04 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter.

NEW SECTION. Sec. 12. *The director shall promptly appoint a low income housing assistance advisory committee composed of a representative from each of the following groups: Apartment owners, mobile home park owners, realtors, mortgage lending or servicing institutions, private nonprofit housing assistance programs, and public housing assistance programs. The advisory group shall advise the director on housing needs in this state, operational aspects of the grant and loan program or revenue collection programs established by this chapter, and implementation of the policy and goals of this chapter.

*Sec. 12 was vetoed, see message at end of chapter.

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.

NEW SECTION. Sec. 14. Sections 1 through 12 of this act shall constitute a new chapter in Title 43 RCW.

Passed the Senate February 13, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to sections 4 and 12, Enrolled Second Substitute Senate Bill No. 4626, entitled:

"AN ACT Relating to the housing trust fund; and adding a new chapter to Title 43 RCW."

Section 4 of the bill allocates funds from the Housing Trust Fund to the Department of Community Development to administer the act. Until a financing source is established, the act is merely a statement of intent without fiscal impact. I am vetoing this section because the allocation of funds is premature.

The advisory committee established in section 12 is no longer appropriate to the legislation as passed. The composition of the advisory committee should be based on the selection of the source of funding for the trust fund and the affected parties. Once the sources of funding are determined, an advisory committee representing those sources should be established.

While I am vetoing section 12, I will request the Director of the Department of Community Development to work with the appropriate committees of the Legislature in their efforts to evaluate emerging low-income housing needs and potential sources of revenue for the Housing Trust Fund.

With the exception of sections 4 and 12, Engrossed Second Substitute Senate Bill No. 4626 is approved."

CHAPTER 299

[Engrossed Substitute House Bill No. 1687]

PRIVATE VOCATIONAL SCHOOLS

AN ACT Relating to private vocational schools; amending RCW 18.50.040 and 42.17-.310; adding a new chapter to Title 28C RCW; creating a new section; repealing RCW 28B-.05.010, 28B.05.020, 28B.05.030, 28B.05.040, 28B.05.050, 28B.05.060, 28B.05.070, 28B.05.080, 28B.05.090, 28B.05.100, 28B.05.110, 28B.05.120, 28B.05.130, 28B.05.140, 28B-.05.150, 28B.05.160, 28B.05.170, 28B.05.180, 28B.05.190, 28B.05.200, 28B.05.210, 28B.05-.220, 28B.05.230, 28B.05.240, 28B.05.900, 28B.05.950, 43.131.291, and 43.131.292; prescribing penalties; making an appropriation; and providing an effective date.

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

NEW SECTION. Sec. 1. It is the intent of this chapter to protect against practices by private vocational schools which are false, deceptive, misleading, or unfair, and to help ensure adequate educational quality at private vocational schools.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means the commission for vocational education or its successor.

(2) "Agent" means a person owning an interest in, employed by, or representing for remuneration a private vocational school within or without this state, who enrolls or personally attempts to secure the enrollment in a private vocational school of a resident of this state, offers to award educational credentials for remuneration on behalf of a private vocational school, or holds himself or herself out to residents of this state as representing a private vocational school for any of these purposes.

(3) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of an academic program of study beyond the secondary school level.

(4) "Education" includes but is not limited to, any class, course, or program of training, instruction, or study.

(5) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for any educational program.

(6) "Entity" includes, but is not limited to, a person, company, firm, society, association, partnership, corporation, or trust.

(7) "Private vocational school" means any entity offering postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession.

(8) "To grant" includes to award, issue, sell, confer, bestow, or give.

(9) "To offer" includes, in addition to its usual meanings, to advertise or publicize. "To offer" also means to solicit or encourage any person, directly or indirectly, to perform the act described.

(10) "To operate" means to establish, keep, or maintain any facility or location where, from, or through which education is offered or educational credentials are offered or granted to residents of this state, and includes contracting for the performance of any such act.

NEW SECTION. Sec. 3. This chapter does not apply to:

(1) Bona fide trade, business, professional, or fraternal organizations sponsoring educational programs primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Entities offering education that is exclusively avocational or recreational;

(3) Education not requiring payment of money or other consideration if this education is not advertised or promoted as leading toward educational credentials;

(4) Entities that are established, operated, and governed by this state or its political subdivisions under Title 28A, 28B, or 28C RCW;

(5) Degree-granting programs in compliance with the rules of the higher education coordinating board;

(6) Any other entity to the extent that it has been exempted from some or all of the provisions of this chapter under section 10 of this act;

(7) Entities not otherwise exempt that are of a religious character, but only as to those educational programs exclusively devoted to religious or theological objectives and represented accurately in institutional catalogs or other official publications;

(8) Entities certified by the federal aviation administration;

(9) Barber and cosmetology schools licensed under chapter 18.16 RCW;

(10) Entities which only offer courses approved to meet the continuing education requirements for licensure under chapters 18.04, 18.78, 18.88, or 48.17 RCW; and

(11) Entities not otherwise exempt offering only workshops or seminars lasting no longer than three calendar days.

NEW SECTION. Sec. 4. The agency:

(1) Shall maintain a list of private vocational schools licensed under this chapter;

(2) Shall adopt rules in accordance with chapter 34.04 RCW to carry out this chapter;

(3) May investigate any entity the agency reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the agency may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the agency deems relevant or material to the investigation. The agency, including its staff and any other authorized persons, may conduct site inspections and examine records of all schools subject to this chapter;

(4) Shall develop an interagency agreement with the higher education coordinating board to regulate degree-granting private vocational schools with respect to nondegree programs.

NEW SECTION. Sec. 5. (1) The agency shall adopt by rule minimum standards for private vocational schools. The minimum standards shall include, but not be limited to, requirements for each school to:

(a) Disclose to the agency information about its ownership and financial position and to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the agency shall not be subject to public disclosure under chapter 42.17 RCW.

(b) Follow a uniform state-wide cancellation and refund policy as specified by the agency.

(c) Disclose through use of a school catalog, brochure, or other written material, necessary information to students so that students may make informed enrollment decisions. The agency shall specify what information is required.

(d) Use an enrollment contract or agreement that includes: (i) The cancellation and refund policy, (ii) a brief statement that the school is licensed under this chapter and that inquiries may be made to the agency, and (iii) other necessary information as determined by the agency.

(e) Describe accurately and completely in writing to students before their enrollment prerequisites and requirements for (i) completing successfully the programs of study in which they are interested and (ii) qualifying for the fields of employment for which their education is designed.

(2) The agency shall deny, revoke, or suspend the license of any school that does not meet or maintain the minimum standards.

NEW SECTION. Sec. 6. Any entity desiring to operate a private vocational school shall apply for a license to the agency on a form provided by the agency. The agency shall issue a license if the school:

(1) Files a completed application with information satisfactory to the agency. Misrepresentation by an applicant shall be grounds for the agency, at its discretion, to deny or revoke a license.

(2) Files the surety bond or other security required under this chapter.

(3) Pays the required fees.

(4) Meets the minimum standards adopted by the agency under section 5 of this act.

Licenses shall be valid for one year from the date of issue unless revoked or suspended. If a school fails to file a completed renewal application at least thirty days before the expiration date of its current license the school shall be subject to payment of a late filing fee fixed by the agency.

NEW SECTION. Sec. 7. The agency shall establish fees by rule at a level necessary to approximately recover the staffing costs incurred in administering this chapter. All fees collected under this section shall be deposited in the state general fund.

NEW SECTION. Sec. 8. (1) Each private vocational school shall have on file with the agency an approved surety bond or other security in lieu of a bond. The bond or other security shall be in an amount not less than five thousand dollars but no more than two hundred thousand dollars. Security shall be determined on an incremental scale based on the average amount of unearned prepaid tuition in possession of the school, as determined by the agency.

(2) In lieu of a surety bond, a private vocational school may deposit with the agency a cash deposit or other negotiable security acceptable to the agency. The security deposited with the agency in lieu of the surety bond shall be returned to the school one year after the school's license has expired or been revoked if legal action has not been instituted against the school or the security deposit at the expiration of the year. The obligations and remedies relating to surety bonds authorized by this section, including but not limited to the settlement of claims procedure in subsection (5) of this section, shall apply to deposits filed with the agency, as applicable.

(3) Each bond shall:

(a) Be executed by the private vocational school as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state for the benefit and protection of any student or enrollee of a private vocational school, or, in the case of a minor, his or her parents or guardian;

(c) Be conditioned on compliance with all provisions of this chapter and the agency rules adopted under this chapter;

(d) Require the surety to give written notice to the agency at least thirty-five days before cancellation of the bond; and

(e) Remain in effect for one year following the effective date of its cancellation or termination as to any obligation occurring on or before the effective date of cancellation or termination.

(4) Upon receiving notice of a bond cancellation, the agency shall notify the school that the license will be suspended on the effective date of the bond cancellation unless the school files with the agency another approved surety bond or other security.

(5) If a complaint is filed under section 12(1) of this act against a private vocational school, the agency may file a claim against the surety and settle claims against the surety by following the procedure in this subsection.

(a) The agency shall attempt to notify all potential claimants. If the absence of records or other circumstances makes it impossible or unreasonable for the agency to ascertain the names and addresses of all the claimants, the agency after exerting due diligence and making reasonable inquiry to secure that information from all reasonable and available sources, may make a demand on a bond on the basis of information in the agency's possession. The agency is not liable or responsible for claims or the handling of claims that may subsequently appear or be discovered.

(b) Thirty days after notification, if a claimant fails, refuses, or neglects to file with the agency a verified claim, the agency shall be relieved of further duty or action under this chapter on behalf of the claimant.

(c) After reviewing the claims, the agency may make demands upon the bond on behalf of those claimants whose claims have been filed. The agency may settle or compromise the claims with the surety and may execute and deliver a release and discharge of the bond.

(d) If the surety refuses to pay the demand, the agency may bring an action on the bond in behalf of the claimants. If an action is commenced on the bond, the agency may require a new bond to be filed.

(e) Within ten days after a recovery on a bond or other posted security has occurred, the private vocational school shall file a new bond or otherwise restore its security on file to the required amount.

(6) The liability of the surety shall not exceed the amount of the bond.

NEW SECTION. Sec. 9. A private vocational school, whether located in this state or outside of this state, shall not conduct business of any kind, make any offers, advertise or solicit, or enter into any contracts unless the private vocational school is licensed under this chapter.

NEW SECTION. Sec. 10. The executive director of the agency may suspend or modify any of the requirements under this chapter in a particular case if the agency finds that:

(1) The suspension or modification is consistent with the purposes of this chapter; and

(2) The education to be offered addresses a substantial, demonstrated need among residents of the state or that literal application of this chapter would cause a manifestly unreasonable hardship.

NEW SECTION. Sec. 11. It is an unfair business practice for a private vocational school or agent to:

(1) Fail to comply with the terms of a student enrollment contract or agreement;

(2) Use an enrollment contract form, catalog, brochure, or similar written material affecting the terms and conditions of student enrollment other than that previously submitted to the agency and authorized for use;

(3) Represent falsely, directly or by implication, that the school is an employment agency, is making an offer of employment or otherwise is attempting to conceal the fact that what is being represented are course offerings of a school;

(4) Represent falsely, directly or by implication, that an educational program is approved by a particular industry or that successful completion of the program qualifies a student for admission to a labor union or similar organization or for the receipt of a state license in any business, occupation, or profession;

(5) Represent falsely, directly or by implication, that a student who successfully completes a course or program of instruction may transfer credit for the course or program to any institution of higher education;

(6) Represent falsely, directly or by implication, in advertising or in any other manner, the school's size, location, facilities, equipment, faculty qualifications, or the extent or nature of any approval received from an accrediting association;

(7) Represent that the school is approved, recommended, or endorsed by the state of Washington or by the agency, except the fact that the school is authorized to operate under this chapter may be stated;

(8) Provide prospective students with any testimonial, endorsement, or other information which has the tendency to mislead or deceive prospective students or the public regarding current practices of the school, current conditions for employment opportunities, or probable earnings in the occupation for which the education was designed;

(9) Designate or refer to sales representatives as "counselors," "advisors," or similar terms which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives;

(10) Make or cause to be made any statement or representation in connection with the offering of education if the school or agent knows or reasonably should have known the statement or representation to be false, substantially inaccurate, or misleading; or

(11) Engage in methods of advertising, sales, collection, credit, or other business practices which are false, deceptive, misleading, or unfair, as determined by the agency by rule.

It is a violation of this chapter for a private vocational school to engage in an unfair business practice.

NEW SECTION. Sec. 12. (1) A person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the agency. The complaint shall set forth the alleged violation and shall contain information required by the agency. A complaint may also be filed with the

agency by an authorized staff member of the agency or by the attorney general.

(2) The agency shall investigate any complaint under this section and may attempt to bring about a settlement. The agency may hold a contested case hearing pursuant to the administrative procedure act, chapter 34.04 RCW, in order to determine whether a violation has occurred. If the agency prevails, the private vocational school shall pay the costs of the administrative hearing.

(3) If, after the hearing, the agency finds that the private vocational school or its agent engaged in or is engaging in any unfair business practice, the agency shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under section 13 of this act. If the agency finds that the complainant has suffered loss as a result of the act or practice, the agency may order full or partial restitution for the loss. The complainant is not bound by the agency's determination of restitution and may pursue any other legal remedy.

NEW SECTION. Sec. 13. Any private vocational school or agent violating section 6, 9, or 11 of this act or the applicable agency rules is subject to a civil penalty of not more than one hundred dollars for each separate violation. Each day on which a violation occurs constitutes a separate violation. Multiple violations on a single day may be considered separate violations. The fine may be imposed by the agency under section 12 of this act, or in any court of competent jurisdiction.

NEW SECTION. Sec. 14. Any entity or any owner, officer, agent, or employee of such entity who wilfully violates section 6 or 9 of this act is guilty of a gross misdemeanor and, upon conviction, shall be punished by a fine of not to exceed one thousand dollars or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

Each day on which a violation occurs constitutes a separate violation. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state.

NEW SECTION. Sec. 15. A private vocational school, whether located in this state or outside of this state, that conducts business of any kind, makes any offers, advertises, solicits, or enters into any contracts in this state or with a resident of this state is subject to the jurisdiction of the courts of this state for any cause of action arising from the acts.

NEW SECTION. Sec. 16. If any private vocational school discontinues its operation, the chief administrative officer of the school shall file with the agency the original or legible true copies of all educational records required by the agency. If the agency determines that any educational records are in danger of being made unavailable to the agency, the agency may seek a court order to protect and if necessary take possession of the records. The

agency shall cause to be maintained a permanent file of educational records coming into its possession.

NEW SECTION. Sec. 17. If a student or prospective student is a resident of this state at the time any contract relating to payment for education or any note, instrument, or other evidence of indebtedness relating thereto is entered into, section 18 of this act shall govern the rights of the parties to the contract or evidence of indebtedness. If a contract or evidence of indebtedness contains any of the following agreements, the contract is voidable at the option of the student or prospective student:

- (1) That the law of another state shall apply;
- (2) That the maker or any person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;
- (3) That another person is authorized to confess judgment on the contract or evidence of indebtedness; or
- (4) That fixes venue.

NEW SECTION. Sec. 18. A note, instrument, or other evidence of indebtedness or contract relating to payment for education is not enforceable in the courts of this state by a private vocational school or holder of the instrument unless the private vocational school was licensed under this chapter at the time the note, instrument, or other evidence of indebtedness or contract was entered into.

NEW SECTION. Sec. 19. The attorney general or the prosecuting attorney of any county in which a private vocational school or agent of the school is found may bring an action in any court of competent jurisdiction for the enforcement of this chapter. The court may issue an injunction or grant any other appropriate form of relief.

NEW SECTION. Sec. 20. The agency may seek injunctive relief, after giving notice to the affected party, in a court of competent jurisdiction for a violation of this chapter or the rules adopted under this chapter. The agency need not allege or prove that the agency has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the agency has and is in addition to any right of criminal prosecution provided by law. The existence of agency action with respect to alleged violations of this chapter and rules adopted under this chapter does not operate as a bar to an action for injunctive relief under this section.

NEW SECTION. Sec. 21. A violation of this chapter or the rules adopted under this chapter affects the public interest and is an unfair or deceptive act or practice in violation of RCW 19.86.020 of the consumer protection act. The remedies and sanctions provided by this section shall not preclude application of other remedies and sanctions.

NEW SECTION. Sec. 22. The remedies and penalties provided for in this chapter are nonexclusive and cumulative and do not affect any other actions or proceedings.

****NEW SECTION. Sec. 23. The agency shall, within sixty days after the effective date of this act and annually thereafter, empanel a private vocational school advisory committee. Said committee shall serve as advisors in the implementation of this chapter and for such other liaison purposes as the agency may determine. It shall consist of no less than seven and no more than eleven persons who are practitioners in proprietary education but one of whom is a recent graduate of a proprietary school. Consideration in making appointments shall be given to maintaining a geographic balance among areas of the state and achieving a balanced representation of occupational specialties offered among private vocational schools state-wide. The committee shall meet at least quarterly. Members shall serve without pay but be reimbursed for travel expenses as provided under RCW 43.03.050 and 43.03.060 as now or hereafter amended. The committee shall adopt bylaws and elect officers from among its members annually.***

*Sec. 23 was vetoed, see message at end of chapter.

Sec. 24. Section 2, chapter 160, Laws of 1917 as amended by section 6, chapter 53, Laws of 1981 and RCW 18.50.040 are each amended to read as follows:

(1) Any person seeking to be examined shall present to the director, at least forty-five days before the commencement of the examination, a written application on a form or forms provided by the director setting forth under affidavit such information as the director may require and proof the candidate has received a high school degree or its equivalent; that the candidate is twenty-one years of age or older; that the candidate has received a certificate or diploma from a midwifery program accredited by the director and (~~registered~~) licensed under chapter (~~28B-05-RCW~~) 28C.— RCW (sections 1 through 23 of this 1986 act), when applicable, or a certificate or diploma in a foreign institution on midwifery of equal requirements conferring the full right to practice midwifery in the country in which it was issued. The diploma must bear the seal of the institution from which the applicant was graduated. Foreign candidates must present with the application a translation of the foreign certificate or diploma made by and under the seal of the consulate of the country in which the certificate or diploma was issued.

(2) The candidate shall meet the following conditions:

(a) Obtaining a minimum period of midwifery training for at least three years including the study of the basic nursing skills that the department shall prescribe by rule. However, if the applicant is a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, or has had previous nursing education or practical midwifery experience, the required period of training may be reduced depending upon the extent of the candidate's qualifications as determined under rules adopted by the department. In no case shall the training be reduced to a period of less than two years.

(b) Meeting minimum educational requirements which shall include studying obstetrics; neonatal pediatrics; basic sciences; female reproductive anatomy and physiology; behavioral sciences; childbirth education; community care; obstetrical pharmacology; epidemiology; gynecology; family planning; genetics; embryology; neonatology; the medical and legal aspects of midwifery; nutrition during pregnancy and lactation; breast feeding; nursing skills, including but not limited to injections, administering intravenous fluids, catheterization, and aseptic technique; and such other requirements prescribed by rule.

(c) For a student midwife during training, undertaking the care of not less than fifty women in each of the prenatal, intrapartum, and early postpartum periods, but the same women need not be seen through all three periods. A student midwife may be issued a permit upon the satisfactory completion of the requirements in (a), (b), and (c) of this subsection and the satisfactory completion of the licensure examination required by RCW 18.50.060. The permit permits the student midwife to practice under the supervision of a midwife licensed under this chapter, a physician licensed under chapter 18.57 or 18.71 RCW, or a certified nurse-midwife licensed under the authority of chapter 18.88 RCW. The permit shall expire within one year of issuance and may be extended as provided by rule.

(d) Observing an additional fifty women in the intrapartum period before the candidate qualifies for a license.

The training required under this section shall include training in either hospitals or alternative birth settings or both with particular emphasis on learning the ability to differentiate between low-risk and high-risk pregnancies.

Sec. 25. Section 31, chapter 1, Laws of 1973 as last amended by section 8, chapter 414, Laws of 1985 and RCW 42.17.310 are each amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, 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 disclosures filed by private vocational schools under chapter 28C.— RCW (sections 1 through 23 of this 1986 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.

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05-.010;

(2) Section 2, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05-.020;

(3) Section 3, chapter 188, Laws of 1979 ex. sess., section 1, chapter 283, Laws of 1981, section 44, chapter 370, Laws of 1985 and RCW 28B-.05.030;

(4) Section 4, chapter 188, Laws of 1979 ex. sess., section 1, chapter 82, Laws of 1980, section 2, chapter 283, Laws of 1981, section 1, chapter 266, Laws of 1983, section 96, chapter 7, Laws of 1985 and RCW 28B.05-.040;

(5) Section 5, chapter 188, Laws of 1979 ex. sess., section 45, chapter 370, Laws of 1985 and RCW 28B.05.050;

(6) Section 6, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05-.060;

(7) Section 7, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05-.070;

(8) Section 8, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05-.080;

(9) Section 9, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05-.090;

- (10) Section 10, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.100;
- (11) Section 11, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.110;
- (12) Section 12, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.120;
- (13) Section 13, chapter 188, Laws of 1979 ex. sess., section 3, chapter 283, Laws of 1981, section 46, chapter 370, Laws of 1985 and RCW 28B-.05.130;
- (14) Section 14, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.140;
- (15) Section 15, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.150;
- (16) Section 16, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.160;
- (17) Section 17, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.170;
- (18) Section 18, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.180;
- (19) Section 19, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.190;
- (20) Section 20, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.200;
- (21) Section 21, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.210;
- (22) Section 22, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.220;
- (23) Section 23, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.230;
- (24) Section 24, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.240;
- (25) Section 27, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.900;
- (26) Section 28, chapter 188, Laws of 1979 ex. sess. and RCW 28B-.05.950;
- (27) Section 19, chapter 197, Laws of 1983 and RCW 43.131.291; and
- (28) Section 45, chapter 197, Laws of 1983 and RCW 43.131.292.

NEW SECTION. Sec. 27. 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. 28. A private vocational school registered under chapter 188, Laws of 1979, as amended, as of June 30, 1986, shall be

considered to be licensed under chapter 28C.— RCW (sections 1 through 23 of this act) until January 31, 1987.

NEW SECTION. Sec. 29. Sections 1 through 23 of this act shall constitute a new chapter in Title 28C RCW.

NEW SECTION. Sec. 30. (1) The sum of thirty-five thousand dollars, or so much thereof as may be necessary, is appropriated from the general fund to the agency for the biennium ending June 30, 1987. Subject to approval by the director of financial management, not more than \$31,300 may be used to employ one additional full time equivalent employee to administer this chapter. Not more than \$3,700 may be used for travel expenses under RCW 43.03.050 and 43.03.060.

(2) This section shall take effect when the director of financial management determines that the agency has established the fees under section 7 of this act.

NEW SECTION. Sec. 31. This act shall take effect July 1, 1986.

Passed the House March 8, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

Note: Governors explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 23, Engrossed Substitute House Bill No. 1687, entitled:

"AN ACT Relating to private vocational schools."

Section 23 of this bill would create an advisory committee whose members serve as advisors in implementing this bill and for other liaison purposes as the Commission for Vocational Education determines. Boards, commissions, committees, task forces and similar entities have proliferated in this state, now numbering over 400 bodies. While many of these existing entities were created to serve useful purposes, the needs of the state change over time. Since these entities are specified in statute, they often persist beyond their period of usefulness. Statutory entities lack the flexibility to adapt to changing conditions since an entity designed to serve one purpose cannot change to meet new or different needs without legislative approval.

I have also found that it is difficult to abolish statutory entities that have outlived their usefulness. State agencies, moreover, generally have the authority to create ad hoc advisory groups as the need arises. This authority makes it unnecessary to create advisory committees in statute. For these reasons, I have vetoed section 23.

A veto of the entire bill was considered because I have strong reservations about the assignment of this legislation to the Commission for Vocational Education. Additional duties should not be given to an agency that will begin the sunset process on June 30, 1986. My approval of this bill should not give the impression that I favor strengthening or expanding the duties of the Commission for Vocational Education. However, students attending proprietary schools need the protections and safeguards provided in the bill.

With the exception of section 23, Engrossed Substitute House Bill No. 1687 is approved."

CHAPTER 300

[Engrossed Substitute House Bill No. 1950]
 MEDICAL MALPRACTICE

AN ACT Relating to medical malpractice; amending RCW 18.72.040 and 18.72.155; adding new sections to chapter 18.57 RCW; adding new sections to chapter 18.72 RCW; adding new sections to chapter 70.41 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. (1) The legislature finds that medical malpractice will be reduced if hospitals establish coordinated medical malpractice prevention programs and provide greater scrutiny of physicians prior to granting or renewing hospital privileges.

(2) The legislature also finds that physician disciplinary boards can reduce medical malpractice if they have access to additional information on health care providers who are incompetent or impaired.

PART 1
 MEDICAL DISCIPLINARY BOARD

*Sec. 2. Section 4, chapter 202, Laws of 1955 as amended by section 1, chapter 71, Laws of 1977 and RCW 18.72.040 are each amended to read as follows:

There is hereby created the "Washington state medical disciplinary board," which shall be composed of one holder of a valid license to practice medicine and surgery from each congressional district now existing or hereafter created in the state and ~~((one))~~ three members of the public who meet~~((s))~~ the qualifications contained in RCW 70.39.020(2) shall be appointed by the governor. The public ~~((member's))~~ members' term shall be for ~~((two))~~ four years ~~((commencing on October 1st of each odd-numbered year))~~. In order to achieve staggered terms, the public member serving on the board on the effective date of this 1986 act shall continue to serve until October 1, 1987. The remaining two public members shall be appointed to initial terms of three years and four years, respectively.

The board shall be an administrative agency of the state of Washington. The attorney general shall be the advisor of the board and shall represent it in all legal proceedings. Assistant attorneys general assigned to the board are subject to the approval of the board and shall work under the direct control of the board while so assigned.

*Sec. 2 was partially vetoed, see message at end of chapter.

*Sec. 3. Section 6, chapter 111, Laws of 1979 ex. sess. and RCW 18.72.155 are each amended to read as follows:

The director of the department of licensing shall appoint, from a list of three names supplied by the board, an executive secretary who shall act to carry out the provisions of this chapter. The director shall also employ such

additional staff including administrative assistants, investigators, and clerical staff as are required to enable the board to accomplish its duties and responsibilities. Investigators employed under this section shall be assigned solely to the board and are subject to the approval of the board. The executive secretary shall be exempt from the provisions of the civil service law, chapter 41-.06 RCW, as now or hereafter amended.

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

PART II

MEDICAL MALPRACTICE PREVENTION PROGRAM

NEW SECTION. Sec. 4. A new section is added to chapter 70.41 RCW to read as follows:

(1) Every hospital shall maintain a coordinated program for the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of a quality assurance committee with the responsibility to review the services rendered in the hospital in order to improve the quality of medical care of patients and to prevent medical malpractice. The committee shall oversee and coordinate the medical malpractice prevention program and shall insure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures. At least one member of the committee shall be a member of the governing board of the hospital who is not otherwise affiliated with the hospital in an employment or contractual capacity;

(b) A medical staff privileges sanction procedure through which credentials, physical and mental capacity, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with patient safety, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the medical malpractice prevention program or who, in substantial good faith, participates on the quality assurance committee shall not be subject to an action for civil damages or other relief as a result of such activity.

(3) Information and documents, including complaints and incident reports, created, collected, and maintained about health care providers arising out of the matters that are subject to evaluation by a review committee conducting quality assurance reviews are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or board shall be permitted or required to testify in any civil action as to the content of such proceedings. This subsection does not preclude: (a) In any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (b) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality assurance committees regarding such health care provider; or (c) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any.

(4) The department of social and health services shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(5) The medical disciplinary board or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(6) Violation of this section shall not be considered negligence per se.

NEW SECTION. Sec. 5. A new section is added to chapter 18.72 RCW to read as follows:

(1) A licensed health care professional licensed under chapter 18.71 RCW shall report to the medical disciplinary board when he or she has

personal knowledge that a practicing physician has either committed an act or acts which may constitute statutorily defined unprofessional conduct or that a practicing physician may be unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical conditions.

(2) Reporting under this section is not required by:

(a) An appropriately appointed peer review committee member of a licensed hospital or by an appropriately designated professional review committee member of a county or state medical society during the investigative phase of their respective operations if these investigations are completed in a timely manner; or

(b) A treating licensed health care professional of a physician currently involved in a treatment program as long as the physician patient actively participates in the treatment program and the physician patient's impairment does not constitute a clear and present danger to the public health, safety, or welfare.

(3) The medical disciplinary board may impose disciplinary sanctions, including license suspension or revocation, on any health care professional subject to the jurisdiction of the board who has failed to comply with this section.

NEW SECTION. Sec. 6. A new section is added to chapter 18.72 RCW to read as follows:

(1) Every institution or organization providing professional liability insurance to physicians shall send a complete report to the medical disciplinary board of all malpractice settlements, awards, or payments in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured physician's incompetency or negligence in the practice of medicine. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a year as the result of the alleged physician's incompetence or negligence in the practice of medicine regardless of the dollar amount of the award or payment.

(2) Reports required by this section shall be made within sixty days of the date of the settlement or verdict. Failure to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

NEW SECTION. Sec. 7. A new section is added to chapter 70.41 RCW to read as follows:

The chief administrator or executive officer of a hospital shall report to the board when a physician's clinical privileges are terminated or are restricted based on a determination, in accordance with an institution's by-laws, that a physician has either committed an act or acts which may constitute unprofessional conduct. The officer shall also report if a physician accepts voluntary termination in order to foreclose or terminate actual or

possible hospital action to suspend, restrict, or terminate a physician's clinical privileges. Such a report shall be made within sixty days of the date action was taken by the hospital's peer review committee or the physician's acceptance of voluntary termination or restriction of privileges. Failure of a hospital to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

NEW SECTION. Sec. 8. A new section is added to chapter 70.41 RCW to read as follows:

Each hospital shall keep written records of decisions to restrict or terminate privileges of practitioners. Copies of such records shall be made available to the board within thirty days of a request and all information so gained shall remain confidential in accordance with sections 4 and 11 of this act and shall be protected from the discovery process. Failure of a hospital to comply with this section is punishable by civil penalty not to exceed two hundred fifty dollars.

NEW SECTION. Sec. 9. A new section is added to chapter 18.57 RCW to read as follows:

A health care professional licensed under chapter 18.57 RCW shall report to the board when he or she has personal knowledge that a practicing osteopathic physician has either committed an act or acts which may constitute statutorily defined unprofessional conduct or that a practicing osteopathic physician may be unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any impairing mental or physical conditions.

(2) Reporting under this section is not required by:

(a) An appropriately appointed peer review committee member of a licensed hospital or by an appropriately designated professional review committee member of an osteopathic medical society during the investigative phase of their respective operations if these investigations are completed in a timely manner; or

(b) A treating licensed health care professional of an osteopathic physician currently involved in a treatment program as long as the physician patient actively participates in the treatment program and the physician patient's impairment does not constitute a clear and present danger to the public health, safety, or welfare.

(3) The board may impose disciplinary sanctions, including license suspension or revocation, on any health care professional subject to the jurisdiction of the board who has failed to comply with this section.

NEW SECTION. Sec. 10. A new section is added to chapter 18.57 RCW to read as follows:

Every institution or organization providing professional liability insurance to osteopathic physicians shall send a complete report to the board of

all malpractice settlements, awards, or payments in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured physician's incompetency or negligence in the practice of osteopathic medicine. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a year as the result of the alleged physician's incompetence or negligence in the practice of medicine regardless of the dollar amount of the award or payment.

Reports required by this section shall be made within sixty days of the date of the settlement or verdict. Failure to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

PART III

GRANT OR RENEWAL OF HOSPITAL PRIVILEGES

NEW SECTION. Sec. 11. A new section is added to chapter 70.41 RCW to read as follows:

(1) Prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice;

(b) If such association, employment, privilege, or practice was discontinued, the reasons for its discontinuation;

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;

(e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Prior to granting privileges or association to any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from any hospital with or at which the physician had or has privileges, was associated, or was employed, the following information concerning the physician:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.72.265.

(3) The medical disciplinary board shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) and (2) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(5) Information and documents, including complaints and incident reports, created, collected, and maintained about health care providers arising out of the matters that are subject to evaluation by a review committee conducting quality assurance reviews are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or board shall be permitted or required to testify in any civil action as to the content of such proceedings. This subsection does not preclude: (a) In any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (b) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality assurance committees regarding such health care provider; or (c) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any.

(6) Hospitals shall be granted access to information held by the medical disciplinary board and the board of osteopathic medicine and surgery pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(7) Violation of this section shall not be considered negligence per se.

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.

Passed the House March 9, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to certain portions, Substitute House Bill No. 1950, entitled:

"AN ACT Relating to medical malpractice."

The last sentence of section 2 would require Assistant Attorneys General assigned to the Medical Disciplinary Board to be subject to Board approval and to work under the Board's control. Section 3 would require investigators to be assigned solely to the Board and to be subject to the Board's approval. Both provisions are being vetoed.

Designation and supervision of full-time staff is not the duty of a part-time board. It is better performed by the staff of the administrative agency, in this case the Department of Licensing. If staffing problems arise, the Board should be able to work them out with the support agency, as a number of other boards presently do. One of the benefits of having a part-time board staffed by a larger administrative agency is that the agency can adjust workloads and tasks so that employees are efficiently utilized. To assign attorneys and investigators to only one board could result in inefficiencies and would prevent pooling of valuable personnel resources.

For these reasons I have vetoed the last sentence of section 2 and all of section 3. The remainder of the bill is approved."

CHAPTER 301

[Engrossed Substitute House Bill No. 1598]

SEXUAL OFFENDERS

AN ACT Relating to sexual offenders; amending RCW 9.94A.120; creating new sections; repealing RCW 9.94A.122; 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 finds that the sexual offender treatment programs at western and eastern state hospitals, while not proven to be totally effective, may be of some benefit in positively affecting the behavior of certain sexual offenders. Given the significance of the problems of sexual assault and sexual abuse of children, it is therefore appropriate to review and revise these treatment efforts.

At the same time, concerns regarding the lack of adequate security at the existing programs must be satisfactorily addressed. In an effort to promote public safety, it is the intent of the legislature to transfer the responsibility for felony sexual offenders from the department of social and health services to the department of corrections.

Therefore, on and after July 1, 1987, no person convicted of a felony sexual offense may be committed under RCW 9.94A.120(7)(b) to the department of social and health services at eastern state hospital or western state hospital. Any person committed before July 1, 1987, to the department of social and health services under RCW 9.94A.120(7)(b) and still in the custody of the department of social and health services on June 30, 1993, shall be transferred to the custody of the department of corrections. On and after July 1, 1987, any person eligible for evaluation or treatment under RCW 9.94A.120(7)(b) shall be committed to the department of corrections.

NEW SECTION. Sec. 2. (1) In cooperation and consultation with the mental health division of the department of social and health services, the department of corrections shall develop a plan for the administration of a sexual offender treatment program. In developing the plan, the department of corrections may consult with private agencies providing counseling to sex offenders. The plan shall include:

- (a) Criteria to determine amenability to treatment;
- (b) A description of the structure and organization of the program and program options, including staffing requirements;
- (c) The treatment methods and the number and characteristics of offenders proposed to be served;
- (d) The selection of the location or locations of the program within the existing institutions operated by the department of corrections, including identification of alternative sites within the existing institutions operated by the department of corrections;
- (e) An analysis of a proposal to permit selected offenders to participate in the program only during the last two or three years of their term of confinement;
- (f) Program security;
- (g) Program costs;
- (h) A description of the mechanisms and procedures to be used to collect valid and reliable data on program completion rates, recidivism rates, and escape rates;
- (i) A method for tracking offenders who have been released which method can be used to determine the efficacy of the treatment program;
- (j) An analysis and description of other treatment models; and
- (k) Negotiations with the exclusive bargaining representative of the employees affected to provide preferential consideration for job retention, including but not limited to interagency transfer or promotion during the period of transition.

(2) Any consultation, information, or other services necessary for the development of the plan, shall upon request by the department of corrections be provided to the department of corrections by the department of social and health services, the legislative budget committee, the office of

financial management, the administrator for the courts, and the data processing authority and shall be provided without charge to the department of corrections.

(3) The plan shall be submitted to the legislature by January 1, 1987, and shall take effect on July 1, 1987, unless otherwise directed by law.

*Sec. 3. Section 12, chapter 137, Laws of 1981 as last amended by section 6, chapter 209, Laws of 1984 and RCW 9.94A.120 are each 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) (~~and~~), (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, other than a person convicted of a violation of chapter 9A.44 RCW or RCW 9A.64.020, 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 of 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(~~(-make restitution,))~~ and/or accomplish some community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, ~~((restitution,))~~ a term of community supervision not to exceed one year, and/or a fine. The court may impose a sentence which provides more than one year of confinement if the court finds, 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 ~~((any))~~ a sex offense other than a violation of ((chapter 9A.44 RCW or RCW 9A.64.020 except)) RCW 9A.44.040 or RCW 9A.44.050 and has no prior convictions ((of chapter 9A.44 RCW, RCW 9A.64.020,)) 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 of 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, (~~make restitution;~~) 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 and is sentenced before July 1, 1987, 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 the department of social and health services at the Eastern State Hospital or the Western State Hospital for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of the department 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 programs at Western State Hospital or Eastern State Hospital, as determined by the secretary of the department of social and health services, 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 the department of social and health services may refer the matter to the sentencing court (~~for determination as to whether~~). The sentencing court shall commit the offender (~~shall be transferred~~) to the department of corrections to serve the balance of his term of confinement.

If the offender successfully completes the treatment program before the expiration of his 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 of 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.

After June 30, 1993, (b) of this subsection shall cease to have effect.

(c) Whenever a court sentences a person convicted of a sex offense committed after July 1, 1986, to a term of confinement of more than one year, including a sentence under (b) of this subsection, the court may also order, in addition to the other terms of the sentence, that the offender, upon release from confinement, serve up to two years of community supervision. The conditions of supervision shall be limited to:

(i) Crime-related provisions;

(ii) A requirement that the offender report to a community corrections officer at regular intervals; and

(iii) A requirement to remain within or without stated geographical boundaries.

The length and conditions of supervision shall be set by the court at the time of sentencing. However, within thirty days prior to release from confinement and throughout the period of supervision, the length and conditions of supervision may be modified by the sentencing court, upon motion of the department of corrections, the offender, or the prosecuting attorney. The period of supervision shall be tolled during any time the offender is in confinement for any reason. In no case may the period of supervision, in combination with the other terms of the offender's sentence, exceed the statutory maximum term for the offender's crime, as set forth in RCW 9A.20.021.

If the offender violates any condition of supervision, the sentencing court, after a hearing conducted in the same manner as provided for in RCW 9.94A.200, may order the offender to be confined for up to sixty days in the county jail at state expense from funds provided for this purpose to the department of corrections. Reimbursement rates for such purposes shall be established based on a formula determined by the office of financial management and reestablished each even-numbered year. An offender may be held in jail at state expense pending the hearing, and any time served while awaiting the hearing shall be credited against confinement imposed for a violation. Even after the period of supervision has expired, an offender may be confined for a violation occurring during the period of supervision. The court

shall retain jurisdiction for the purpose of holding the violation hearing and imposing a sanction.

(8) 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.

(9) 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. 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, and (d) to make such other payments as provided by law. All monetary payments shall be ordered paid by no later than ten years after the date of the judgment of conviction.

(10) 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 which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW ((9A.20.020)).

(11) All offenders sentenced to terms involving community supervision, community service, restitution, or fines shall be under the supervision of the secretary of the department or such person as the secretary may designate and shall follow implicitly 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.

(12) 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.

(13) 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).

(14) 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, 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.

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

Sec. 4. Section 12, chapter 137, Laws of 1981 as last amended by section 3, chapter ... (ESHB 1598), Laws of 1986 and RCW 9.94A.120 are each 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, other than a person convicted of a violation of chapter 9A.44 RCW or RCW 9A.64.020, 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 of 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 of 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 and is sentenced ~~((before))~~ on or after July 1, 1987, 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 the department of social and health services at the Eastern State Hospital or the Western State Hospital for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of the department 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 programs at Western State Hospital or Eastern State Hospital, as determined by the secretary of the department of social and health services, 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 the department 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 his term of confinement))~~ 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.

If the offender ~~((successfully))~~ completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court ~~((may))~~ to convert the balance of confinement to community supervision and ~~((may))~~ 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 of 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 (b) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced prior to July 1, 1987.

After June 30, 1993, (b) of this subsection shall cease to have effect.

(c) Whenever a court sentences a person convicted of a sex offense committed after July 1, 1986, to a term of confinement of more than one year, including a sentence under (b) of this subsection, the court may also order, in addition to the other terms of the sentence, that the offender, upon release from confinement, serve up to two years of community supervision. The conditions of supervision shall be limited to:

(i) Crime-related provisions;

(ii) A requirement that the offender report to a community corrections officer at regular intervals; and

(iii) A requirement to remain within or without stated geographical boundaries.

The length and conditions of supervision shall be set by the court at the time of sentencing. However, within thirty days prior to release from confinement and throughout the period of supervision, the length and conditions of supervision may be modified by the sentencing court, upon motion of the department of corrections, the offender, or the prosecuting attorney. The period of supervision shall be tolled during any time the offender is in confinement for any reason. In no case may the period of supervision, in combination with the other terms of the offender's sentence, exceed the statutory maximum term for the offender's crime, as set forth in RCW 9A.20.021.

If the offender violates any condition of supervision, the sentencing court, after a hearing conducted in the same manner as provided for in RCW 9.94A.200, may order the offender to be confined for up to sixty days in the county jail at state expense from funds provided for this purpose to the department of corrections. Reimbursement rates for such purposes shall be established based on a formula determined by the office of financial management and reestablished each even-numbered year. An offender may be held in jail at state expense pending the hearing, and any time served while awaiting the hearing shall be credited against confinement imposed for a violation. Even after the period of supervision has expired, an offender may be confined for a violation occurring during the period of supervision. The court shall retain jurisdiction for the purpose of holding the violation hearing and imposing a sanction.

(8) 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.

(9) 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. 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, and (d) to make such other payments as provided by law. All monetary payments shall be ordered paid by no later than ten years after the date of the judgment of conviction.

(10) 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 which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(11) 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 implicitly 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.

(12) 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.

(13) 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).

(14) 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, 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.

NEW SECTION. Sec. 5. Nothing contained in this act shall be construed to alter any existing collective bargaining unit existing on the effective date of this section or the provisions of any collective bargaining agreement existing on the effective date of this section until such agreement has expired or until any such bargaining unit has been modified by action of the state personnel board as provided by law.

NEW SECTION. Sec. 6. During the remainder of the 1985-1987 biennium, upon authorization of the office of financial management, the department of social and health services shall reimburse the department of corrections as is necessary for the department of corrections to provide custody to those persons determined not to be amenable to treatment or those persons referred to court by the department of social and health services for failure to comply with the conditions of the program and committed to the department of corrections.

NEW SECTION. Sec. 7. Section 8, chapter 443, Laws of 1985 and RCW 9.94A.122 are each repealed.

NEW SECTION. Sec. 8. Section 4 of this act shall take effect July 1, 1987.

NEW SECTION. Sec. 9. Sections 1, 2, 3, 5, 6, and 7 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.

Passed the House March 12, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 3(7)(c), Engrossed Substitute House Bill No. 1598, entitled:

"AN ACT Relating to sexual offenders."

Section 3(7)(c) provides for post-prison community supervision for sex offenders if their crimes are committed after July 1, 1986, and their term of incarceration is at least one year. Violation of the terms of supervision would result in confinement to the county jail at state expense.

The determinate sentencing law, passed by the Legislature in 1981, was a clear departure from the system of indeterminate sentencing and long-term parole or post-release supervision. It is important for that process to be more fully implemented so that the criminal justice system can stabilize prior to such a significant and costly change in direction as would be provided for in section 3(7)(c).

I do not believe that a limited amount of supervision for sexual offenders is sufficient to ensure public safety, particularly when it may provide a rationale for shorter sentences or early release from prison. In addition, there are no studies that have shown supervision to be an effective deterrent to reoffenses.

However, a short period of supervised transition for all offenders as they re-enter the community from prison was indicated in the original determinate sentencing bill and may be an issue worth revisiting. As this section would not have taken effect until July 1, 1987, it is appropriate that this issue is reviewed in the next budget cycle. However, there are a number of issues in the correctional area that also merit review, such as job training conducted in the institutions and alcohol and drug treatment. I have therefore vetoed section 3(7)(c) of Engrossed Substitute House Bill No. 1598.

With the exception of section 3(7)(c), Engrossed Substitute House Bill No. 1598 is approved."

CHAPTER 302

[Substitute House Bill No. 1972]

SELF-INSURANCE FOR LOCAL GOVERNMENTS

AN ACT Relating to self-insurance; and amending RCW 48.62.040 and 48.01.050.

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

Sec. 1. Section 4, chapter 256, Laws of 1979 ex. sess. as amended by section 1, chapter 278, Laws of 1985 and RCW 48.62.040 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the governing body of any one or more local governmental entities may, as an alternative or in addition to exercising any one or more of the powers granted in RCW 48.62.030 and 36.16.138, as now or hereafter amended, or any other provision of law, form together into or join a pool or organization for the joint purchasing of insurance, and/or joint self-insuring, and/or joint hiring or contracting for risk management services to the same extent that they may individually purchase insurance, self-insure, or hire or contract for risk management services.

(2)(a) No organization of local governmental entities, other than local school districts and educational service districts, that is organized under this section for the purpose of self-insuring shall provide any self-insurance other than liability and property insurance. For purposes of this section, liability insurance shall include but not be limited to coverage for claims arising from the tortious or negligent conduct of the local government entity, its officers, employees, or agents thereof, or any error or omission on the part of said local government entity, its officers, employees or agents thereof as a result of which a claim may be made against the local government entity.

(b) Local school districts and educational service districts may not organize under this section for the purpose of providing joint self-insured life, health, health care, accident, disability and salary protection or insurance, or any combination thereof, to the district employees, students, directors, or any of their dependents.

(3) The agreement to form such a pooling arrangement shall be made under chapter 39.34 RCW. Any pool or organization authorized to be formed by this section shall be subject to audit by the state auditor.

****Sec. 2. Section .01.05, chapter 79, Laws of 1947 as last amended by section 9, chapter 277, Laws of 1985 and RCW 48.01.050 are each amended to read as follows:***

"Insurer" as used in this code includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal or interinsurance exchange is an "insurer" as used in this

code. Two or more hospitals, as defined in RCW 70.39.020(3), which join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against liability claims, including medical liability, through a contributing trust fund shall not be deemed an "insurer" under this code. Two or more local governmental entities, as defined in RCW 48.62.020, which pursuant to RCW 48.62.040, 48.62.035, or any other provision of law join together and organize to form an organization for the purpose of jointly self-insuring or self-funding shall not be deemed an "insurer" under this code. Two or more fraternal benefit societies subject to chapter 24.20 RCW which join together and organize to form an organization for the purposes of self-insuring for damage to property and against liability claims shall not be deemed an "insurer" under this code. Two or more cooperatives operated as cooperatives under chapters 23.86, 24.06, and 24.32 RCW, or Title 23A RCW, which join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring their directors and officers against liability claims through a contributing trust fund shall not be deemed an "insurer" under this code.

*Sec. 2 was vetoed, see message at end of chapter.

Passed the House March 9, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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. 1972, entitled:

"AN ACT Relating to self-insurance."

Groups of local governments are presently authorized to pool for self-insurance, or purchase insurance, for liability coverage. Section 1 of Substitute House Bill No. 1972 extends that authority to include property replacement insurance, which I strongly support.

Property insurance lines are stable and profitable. Inclusion of property coverage as a part of local government pools should help them to attract commercial insurance packages that include the more volatile liability insurance coverages as well. The state's insurance code provides for the effective regulation of local government insurance pools by the Office of the Insurance Commissioner.

However, section 2 of Substitute House Bill No. 1972 seeks to exempt from the state insurance code both "fraternal benefit societies" that organize to self-insure against property and liability claims, as well as "cooperatives" which organize to self-insure against officer and director liability claims. I strongly oppose these two proposed exemptions. Unlike the local government insurance pools referenced in section 1 of the bill, the proposed exemption of "fraternal benefit societies" and "cooperatives" would effectively authorize a class of self-insurers operating totally outside the purview of the insurance code. The insurance code contains safeguards such as requirements for capital reserves, reinsurance and guaranty association protection. These safeguards protect both the self-insurer and those members of the general public who deal with the self-insurer. Exempting groups from these requirements is unwarranted.

In contrast to the approach proposed in section 2 of Substitute House Bill No. 1972, the state insurance code already provides the means by which such groups may form conventional insurance organizations with the appropriate financial and procedural safeguards.

With the exception of section 2, Substitute House Bill No. 1972 is approved.*

CHAPTER 303

[Engrossed Substitute House Bill No. 2021]
MANAGED HEALTH CARE SYSTEMS

AN ACT Relating to managed health care; adding a new section to chapter 74.09 RCW; adding a new section to chapter 43.41 RCW; adding a new chapter to Title 70 RCW; creating new sections; making appropriations; 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) Good health care for indigent persons is of importance to the state;
- (b) To ensure the availability of a good level of health care, efforts must be made to encourage cost consciousness on the part of providers and consumers, while maintaining medical assistance recipients within the mainstream of health care delivery;

(c) Managed health care systems have been found to be effective in controlling costs while providing good health care services;

(d) By enrolling medical assistance recipients within managed health care systems, the state's goal is to ensure that medical assistance recipients receive at least the same quality of care they currently receive.

(2) It is the intent of the legislature to develop and implement new strategies that promote the use of managed health care systems for medical assistance recipients by establishing prepaid capitated programs for both in-patient and out-patient services.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

(1) For the purposes of this section, "managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under RCW 74.09.520 and rendered by licensed providers, on a prepaid capitated case management basis.

(2) No later than July 1, 1991, the department of social and health services shall enter into agreements with managed health care systems to provide health care services to recipients of aid to families with dependent children under the following conditions:

(a) Agreements shall be made within one class A county in the eastern part of the state for at least ten thousand recipients; and one class AA county for at least fifteen thousand recipients in the western part of the

state; and one first class county of at least five thousand recipients in the western part of the state;

(b) At least one of the agreements shall include enrollment of all recipients of aid to families with dependent children residing in a defined geographical area;

(c) The department shall, to the extent possible, ensure that recipients have a choice of systems in which to enroll and, if necessary and medically appropriate treatment for a recipient is not available from or through a participating managed health care system, the department shall exempt the recipient from any requirement to receive some or all of their medical services from such a system;

(d) To the extent possible, the department shall ensure that participating managed health care systems do not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems;

(e) Prior to negotiating with any managed health care system, the department shall estimate, on an actuarially sound basis, the expected cost of providing the health care services expressed in terms of upper and lower limits, and recognizing variations in the cost of providing the services through the various systems and in different project areas. In negotiating with managed health care systems the department shall adopt a uniform procedure that includes at least request for proposals, including standards regarding the quality of services to be provided; and financial integrity of the responding system. The department may negotiate with respondents to the extent necessary to refine any proposals;

(f) The department shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The department shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the department may enter into prepaid capitation contracts that do not include inpatient care;

(h) The department shall define those circumstances under which a managed health care system is responsible for out-of-system services and assure that recipients shall not be charged for such services; and

(i) Nothing in this section prevents the department from entering into similar agreements in additional counties or for other groups of people eligible to receive services under chapter 74.09 RCW.

The department shall seek to obtain a large number of contracts with providers of health services to medicaid recipients. The department shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate in the project as managed health care systems are seriously considered as providers in the project.

(3) The department shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

NEW SECTION. Sec. 3. The department shall report to the legislature not later than January 1, 1987, on progress toward implementation of the requirements of this chapter, but shall not delay implementation on account of this reporting requirement.

The report shall also include an analysis of the possible expansion of the use of managed health care within other medical assistance programs, including making it available to certain recipients of general assistance and supplemental security income.

NEW SECTION. Sec. 4. There is created the Washington health care project commission composed of fifteen members; four members shall be state representatives, two from each political party appointed by the speaker of the house of representatives; four members shall be state senators, two from each political party appointed by the president of the senate.

The legislative members of the commission shall select seven public members, to serve on the commission, that are representative of health care professionals, health care providers, those directly involved in the purchase, provision, or delivery of health care services, industry, consumers, and those knowledgeable of the ethical issues involved with health care public policy.

The legislative members shall select from among the public members one to serve as chairman and from among the legislative members four to serve, together with the chairman, as an executive committee of the commission.

(1) The commission may hire staff or contract for professional assistance with funds made available for their activities. To the extent possible, the department of social and health services, the house of representatives, and the senate shall provide staff support. The commission may apply for and receive and accept grants, gifts, and other payments, including property and services, 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 relating to health care costs or access to health care.

The public members of the commission shall receive no compensation for their service as members, but shall be reimbursed for their expenses while attending any meetings of the commission in the same manner as legislators engaged in interim committee business as specified in RCW 44.04.120.

The commission may establish ad hoc technical advisory committees to assist it with any particular matters deemed necessary and any person serving in such capacity may be reimbursed for their expenses while attending

any meetings of such committee or the commission in the same manner as public members of the commission.

(2) The commission shall have the following responsibilities:

(a) To review and estimate the following information about persons in the state of Washington who do not have health care coverage:

- (i) The numbers of such persons;
- (ii) Their age and geographic distribution;
- (iii) Their employment status;
- (iv) Their family size;
- (v) Their economic status; and
- (vi) Such other information as the commission deems relevant.

(b) To define basic health care coverage, using the following guidelines:

(i) The schedule of services shall emphasize preventive primary health care, including necessary physician services, and inpatient and outpatient hospital services;

(ii) The schedule of services shall include all services necessary for prenatal, postnatal, and well-child care;

(iii) The schedule of services shall include a separate schedule of basic health care services for children eighteen years of age and younger, for those who might choose to secure basic coverage only for their dependent children;

(iv) In designing the schedule of services, the commission shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.42.080; and

(v) The schedule of services shall be based upon an estimated cost not exceeding fifty dollars per month per person enrolled. The commission may develop alternative schedules of services based on higher or lower monthly costs as it deems appropriate.

(c) After establishing at least a tentative schedule of basic health care services, obtain the following information about persons identified in (a) of this subsection:

(i) An estimate of demand for basic health coverage expressed in terms of numbers of potential enrollees if such a program were made available to them, including the basis upon which such an offering should be made; and

(ii) The characteristics of likely enrollees including demographic and economic data, likely utilization and such other actuarial information as needed to estimate the likely cost of the benefit schedule defined by the commission.

(3) The commission shall then use the information obtained pursuant to this section to develop plans that includes:

(a) Methods of delivery for the schedule of basic health care services by managed health care systems;

(b) Methods of soliciting and accepting application for participation in the program to deliver such basic health care services on a demonstration

basis from managed health care systems, including payment methods, rates, and any risk sharing provisions;

(c) Methods whereby the delivery of such services could be integrated with the managed health care systems that may be participating in the medical assistance program of the department of social and health services;

(d) A structure of periodic payments, based upon gross family income, that would be the responsibility of any person or subscriber within the identified groups, or that might be made the responsibility of another private party;

(e) Establishing necessary eligibility standards and guidelines for person seeking such health care coverage, and whatever administrative structure may be needed to enroll such persons;

(f) Methods of monitoring the provision of services to enrollees and the quality of care provided; and

(g) Methods of funding the reasonably anticipated costs of such plans, collectively or individually.

(4) For the purposes of this section, "managed health care systems" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract the schedule of services by duly licensed providers, on a prepaid capitated basis.

(5) The commission shall submit a final report to the legislature no later than December 1, 1986. The report shall include plans that address the needs for such a basic health care program for any identified groups of persons and an analysis of any alternatives considered, but not adopted.

(6) The commission shall terminate upon the submission of their final report.

NEW SECTION. Sec. 5. The sum of one hundred fifty thousand dollars, of which ninety thousand is from the general fund—state and sixty thousand is from the general fund—federal, or so much thereof as may be necessary, is appropriated to the department of social and health services for the biennium ending June 30, 1987, for the purposes identified in sections 2 and 3 of this act.

The sum of one hundred twenty-five thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1987, from the general fund to the Washington health care project commission for the purposes identified in this act: PROVIDED, That the house executive rules committee and senate facilities and operations committee may jointly authorize expenditures for necessary expenses directly related to commission activities or studies on health care issues conducted by any legislative committee during 1986 or 1987.

NEW SECTION. Sec. 6. The following state agencies are directed to cooperate with the office of financial management in order to establish appropriate health care information systems in their programs: The department of social and health services, the department of labor and industries, the state employees' insurance board, the department of veterans affairs, and the department of corrections.

The office of financial management, in conjunction with such agencies, shall determine:

- (1) Definitions of health care services;
- (2) Health care data elements common to all agencies;
- (3) Health care data elements unique to each agency;
- (4) A mechanism for program and budget review of health care data;

and

- (5) Executive review of health care data.

NEW SECTION. Sec. 7. Each of the agencies listed in section 6 of this act, with the exception of the department of labor and industries, which expends more than five hundred thousand dollars annually of state funds for purchase of health care shall identify the availability and costs of nonfee for service providers of health care, including preferred provider organizations, health maintenance organizations, managed health care or case management systems, or other nonfee for service alternatives. In each case where feasible in which an alternative health care provider arrangement, of similar scope and quality, is available at lower cost than fee for service providers, such state agencies shall make the services of the alternative provider available to clients, consumers, or employees for whom state dollars are spent to purchase health care. As consistent with other state and federal law, requirements for copayments, deductibles, the scope of available services, or other incentives shall be used to encourage clients, consumers, or employees to use the lowest cost providers, except that copayments or deductibles shall not be required where they might have the impact of denying access to necessary health care in a timely manner.

NEW SECTION. Sec. 8. Plans for establishing or improving utilization review procedures for purchased health care services shall be developed by each agency listed in section 6 of this act. The plans shall specifically address such utilization review procedures as prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and the obtaining of second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers.

NEW SECTION. Sec. 9. The state agencies listed in section 6 of this act shall review the feasibility of establishing prospective payment approaches within their health care programs. Work plans or timetables shall be prepared for the development of prospective rates. The agencies shall

identify legislative actions that may be necessary to facilitate the adoption of prospective rate setting methods.

NEW SECTION. Sec. 10. (1) Each agency listed in section 6 of this act shall individually or in cooperation with other agencies take any necessary actions to control costs without reducing the quality of care when reimbursing for or purchasing drugs. To accomplish this purpose, each agency shall investigate the feasibility of and may establish a drug formulary designating which drugs may be paid for through their health care programs. For purposes of this section, a drug formulary means a list of drugs, either inclusive or exclusive, that defines which drugs are eligible for reimbursement by the agency.

(2) In developing the drug formulary authorized by this section, agencies:

(a) Shall prohibit reimbursement for drugs that are determined to be ineffective by the United States food and drug administration;

(b) Shall adopt rules in order to ensure that less expensive generic drugs will be substituted for brand name drugs in those instances where the quality of care is not diminished;

(c) Where possible, may authorize reimbursement for drugs only in economical quantities;

(d) May limit the prices paid for drugs by such means as central purchasing, volume contracting, or setting maximum prices to be paid;

(e) Shall consider the approval of drugs with lower abuse potential in substitution for drugs with significant abuse potential; and

(f) May take other necessary measures to control costs of drugs without reducing the quality of care.

(3) Agencies may provide for reasonable exceptions to the drug formulary required by this section.

(4) Agencies may establish medical advisory committees, or utilize committees already established, to assist in the development of the drug formulary required by this section.

***NEW SECTION.** Sec. 11. A new section is added to chapter 43.41 RCW to read as follows:

(1) It is the purpose of this section to ensure implementation and coordination of chapter 70.— RCW (sections 6 through 10 of this act) as well as other legislative and executive policies designed to contain the cost of health care that is purchased or provided by the state. In order to achieve that purpose, the director may:

(a) Establish within the office of financial management a health care cost containment program in cooperation with all state agencies;

(b) Implement lawful health care cost containment policies that have been adopted by the legislature or the governor, including appropriation provisos;

(c) Coordinate the activities of all state agencies with respect to health care cost containment policies;

(d) Study and make recommendations on health care cost containment policies;

(e) Monitor and report on the implementation of health care cost containment policies;

(f) Appoint a health care cost containment technical advisory committee that represents state agencies that are involved in the direct purchase, funding, or provision of health care; and

(g) Engage in other activities necessary to achieve the purposes of this section.

(2) All state agencies shall cooperate with the director in carrying out the purpose of this section.

(3) By December 15 of each even-numbered year, the office of financial management shall submit to the ways and means committees of the senate and house of representatives a report covering total expenditures 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. 11 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 12. Not later than January 1, 1988, the superintendent of public instruction shall report to the legislature on proposed methods of controlling school employee health care costs consistent with the policies and goals of this act.

NEW SECTION. Sec. 13. Sections 6 through 10 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 12, 1986.

Passed the Senate March 12, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 11(3), Engrossed Substitute House Bill No. 2021, entitled:

"AN ACT Relating to managed health care."

Section 11 of this bill permits the Director of Financial Management to establish within the Office of Financial Management a health care cost containment program. The section also authorizes the Director to take other actions to control the cost of health care purchased by state agencies. I support wholeheartedly this effort

to control costs. The bill, however, does not provide any funds for the creation of the cost containment program. Most of section 11 is permissive, giving the Director of Financial Management the flexibility necessary to undertake those aspects of the program that can be accomplished without funding. Subsection (3), however, is a mandatory reporting requirement that involves significant amounts of staff time and other resources, which are not available. For this reason, I have vetoed section 11(3).

With the exception of section 11(3), Engrossed Substitute House Bill No. 2021 is approved."

CHAPTER 304

[Engrossed Substitute Senate Bill No. 3990]

SECURITIES—ACTIONS UNDER THE WASHINGTON STATE SECURITIES ACT—APPLICATION OF EXISTING LAW

AN ACT Relating to securities; and amending RCW 21.20.430.

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

Sec. 1. Section 43, chapter 282, Laws of 1959 as last amended by section 1, chapter 171, Laws of 1985 and RCW 21.20.430 are each amended to read as follows:

(1) Any person, who offers or sells a security in violation of any provisions of RCW 21.20.010 or 21.20.140 through 21.20.230, is liable to the person buying the security from him or her, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at eight percent per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he or she no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at eight percent per annum from the date of disposition.

(2) Any person who buys a security in violation of the provisions of RCW 21.20.010 is liable to the person selling the security to him or her, who may sue either at law or in equity to recover the security, together with any income received on the security, upon tender of the consideration received, costs, and reasonable attorneys' fees, or if the security cannot be recovered, for damages. Damages are the value of the security when the buyer disposed of it, and any income received on the security, less the consideration received for the security, plus interest at eight percent per annum from the date of disposition, costs, and reasonable attorneys' fees.

(3) Every person who directly or indirectly controls a seller or buyer liable under subsection (1) or (2) above, every partner, officer, director or person who occupies a similar status or performs a similar function of such seller or buyer, every employee of such a seller or buyer who materially aids in the transaction, and every broker-dealer, salesperson, or person exempt

under the provisions of RCW 21.20.040 who materially aids in the transaction is also liable jointly and severally with and to the same extent as the seller or buyer, unless such person sustains the burden of proof that he or she did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(4) (a) Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant.

(b) No person may sue under this section more than three years after the contract of sale for any violation of the provisions of RCW 21.20.140 through 21.20.230, or more than three years after a violation of the provisions of RCW 21.20.010, either was discovered by such person or would have been discovered by him or her in the exercise of reasonable care. No person may sue under this section if the buyer or seller receives a written rescission offer, which has been passed upon by the director before suit and at a time when he or she owned the security, to refund the consideration paid together with interest at eight percent per annum from the date of payment, less the amount of any income received on the security in the case of a buyer, or plus the amount of income received on the security in the case of a seller.

(5) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void.

(6) Any tender specified in this section may be made at any time before entry of judgment.

(7) Notwithstanding subsections (1) through (6) of this section, if an initial offer or sale of securities that are exempt from registration under RCW 21.20.310 is made by this state or its agencies, political subdivisions, municipal or quasi-municipal corporations, or other instrumentality of one or more of the foregoing and is in violation of RCW 21.20.010(2), and any such issuer, member of the governing body, committee member, public officer, director, employee, or agent of such issuer acting on its behalf, or person in control of such issuer, member of the governing body, committee member, public officer, director, employee, or agent of such person acting on its behalf, materially aids in the offer or sale, such person is liable to the purchaser of the security only if the purchaser establishes scienter on the part of the defendant. The word "employee" or the word "agent," as such

words are used in this subsection, do not include a bond counsel or an underwriter. Under no circumstances whatsoever shall this subsection be applied to require purchasers to establish scienter on the part of bond counsels or underwriters. The provisions of this subsection are retroactive and apply to any action commenced but not final before July 27, 1985. In addition, the provisions of this subsection apply to any action commenced on or after July 27, 1985.

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

Passed the Senate February 16, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 305

[Engrossed Substitute Senate Bill No. 4630]

TORT LAW REVISIONS

AN ACT Relating to civil actions; amending RCW 5.60.060, 4.22.030, 51.24.060, 4.16-.350, 4.24.115, 4.16.160, 4.16.310, and 4.16.300; adding a new section to chapter 4.22 RCW; adding new sections to chapter 4.24 RCW; adding new sections to chapter 4.56 RCW; adding new sections to chapter 5.40 RCW; adding a new section to chapter 7.70 RCW; adding a new section to chapter 48.19 RCW; adding a new section to chapter 48.22 RCW; creating new sections; repealing RCW 4.56.240; and declaring an emergency.

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

NEW SECTION. Sec. 100. PREAMBLE. Tort law in this state has generally been developed by the courts on a case-by-case basis. While this process has resulted in some significant changes in the law, including amelioration of the harshness of many common law doctrines, the legislature has periodically intervened in order to bring about needed reforms. The purpose of this chapter is to enact further reforms in order to create a more equitable distribution of the cost and risk of injury and increase the availability and affordability of insurance.

The legislature finds that counties, cities, and other governmental entities are faced with increased exposure to lawsuits and awards and dramatic increases in the cost of insurance coverage. These escalating costs ultimately affect the public through higher taxes, loss of essential services, and loss of the protection provided by adequate insurance. In order to improve the availability and affordability of quality governmental services, comprehensive reform is necessary.

The legislature also finds comparable cost increases in professional liability insurance. Escalating malpractice insurance premiums discourage

physicians and other health care providers from initiating or continuing their practice or offering needed services to the public and contribute to the rising costs of consumer health care. Other professionals, such as architects and engineers, face similar difficult choices, financial instability, and unlimited risk in providing services to the public.

The legislature also finds that general liability insurance is becoming unavailable or unaffordable to many businesses, individuals, and nonprofit organizations in amounts sufficient to cover potential losses. High premiums have discouraged socially and economically desirable activities and encourage many to go without adequate insurance coverage.

Therefore, it is the intent of the legislature to reduce costs associated with the tort system, while assuring that adequate and appropriate compensation for persons injured through the fault of others is available.

PART I ACCELERATED PHYSICIAN-PATIENT PRIVILEGE

Sec. 101. Section 294, page 187, Laws of 1854 as last amended by section 1, chapter 56, Laws of 1982 and RCW 5.60.060 are each amended to read as follows:

(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 71.05 RCW: PROVIDED, That the spouse of a person sought to be detained under chapter 71.05 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2) An attorney or counselor shall not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

(3) A clergyman or priest shall not, without the consent of a person making the confession, be examined as to any confession made to him in his professional character, in the course of discipline enjoined by the church to which he belongs.

(4) A ((regular)) physician or surgeon or osteopathic physician or surgeon shall not, without the consent of his patient, be examined in a civil action as to any information acquired in attending such patient, which was

necessary to enable him to prescribe or act for the patient, (~~but this exception shall not apply in any judicial proceeding regarding a child's injuries, neglect or sexual abuse, or the cause thereof~~) except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Within ninety days of filing an action for personal injuries or wrongful death, the claimant shall elect whether or not to waive the physician-patient privilege. If the claimant does not waive the physician-patient privilege, the claimant may not put his or her mental or physical condition or that of his or her decedent or beneficiaries in issue and may not waive the privilege later in the proceedings. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him in official confidence, when the public interest would suffer by the disclosure.

PART II ATTORNEYS' FEES

NEW SECTION. Sec. 201. A new section is added to chapter 4.24 RCW to read as follows:

The court shall, upon petition by a named party in any tort action, except those provided for in RCW 7.70.070, determine the reasonableness of that party's attorneys' fees. The court shall take into consideration the following:

- (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) The fee customarily charged in the locality for similar legal services;
- (4) The amount involved and the results obtained;
- (5) The time limitations imposed by the client or by the circumstances;
- (6) The nature and length of the professional relationship with the client;
- (7) The experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) Whether the fee is fixed or contingent;
- (9) Whether the fixed or contingent fee agreement was in writing and whether the client was aware of his or her right to petition the court under this section.

NEW SECTION. Sec. 202. Section 201 of this act applies to agreements for attorney's fees entered into after the effective date of this section.

PART III
LIMITATION ON NONECONOMIC DAMAGES

NEW SECTION. Sec. 301. A new section is added to chapter 4.56 RCW to read as follows:

(1) As used in this section, the following terms have the meanings indicated unless the context clearly requires otherwise.

(a) "Economic damages" means objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities.

(b) "Noneconomic damages" means subjective, nonmonetary losses, including, but not limited to pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship.

(c) "Bodily injury" means physical injury, sickness, or disease, including death.

(d) "Average annual wage" means the average annual wage in the state of Washington as determined under RCW 50.04.355.

(2) In no action seeking damages for personal injury or death may a claimant recover a judgment for noneconomic damages exceeding an amount determined by multiplying 0.43 by the average annual wage and by the life expectancy of the person incurring noneconomic damages, as the life expectancy is determined by the life expectancy tables adopted by the insurance commissioner. For purposes of determining the maximum amount allowable for noneconomic damages, a claimant's life expectancy shall not be less than fifteen years. The limitation contained in this subsection applies to all claims for noneconomic damages made by a claimant who incurred bodily injury. Claims for loss of consortium, loss of society and companionship, destruction of the parent-child relationship, and all other derivative claims asserted by persons who did not sustain bodily injury are to be included within the limitation on claims for noneconomic damages arising from the same bodily injury.

(3) If a case is tried to a jury, the jury shall not be informed of the limitation contained in subsection (2) of this section.

PART IV
APPORTIONMENT OF DAMAGES

NEW SECTION. Sec. 401. A new section is added to chapter 4.22 RCW to read as follows:

(1) In all actions involving fault of more than one entity, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which caused the claimant's damages, including the claimant or

person suffering personal injury or incurring property damage, defendants, third-party defendants, entities released by the claimant, entities immune from liability to the claimant and entities with any other individual defense against the claimant. Judgment shall be entered against each defendant except those who have been released by the claimant or are immune from liability to the claimant or have prevailed on any other individual defense against the claimant in an amount which represents that party's proportionate share of the claimant's total damages. The liability of each defendant shall be several only and shall not be joint except:

(a) A party shall be responsible for the fault of another person or for payment of the proportionate share of another party where both were acting in concert or when a person was acting as an agent or servant of the party.

(b) If the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the claimant's total damages.

(2) If a defendant is jointly and severally liable under one of the exceptions listed in subsections (1)(a) or (1)(b) of this section, such defendant's rights to contribution against another jointly and severally liable defendant, and the effect of settlement by either such defendant, shall be determined under RCW 4.22.040, 4.22.050, and 4.22.060.

(3)(a) Nothing in this section affects any cause of action relating to hazardous wastes or substances or solid waste disposal sites.

(b) Nothing in this section shall affect a cause of action arising from the tortious interference with contracts or business relations.

(c) Nothing in this section shall affect any cause of action arising from the manufacture or marketing of a fungible product in a generic form which contains no clearly identifiable shape, color, or marking.

Sec. 402. Section 11, chapter 27, Laws of 1981 and RCW 4.22.030 are each amended to read as follows:

Except as otherwise provided in section 401 of this 1986 act, if more than one person is liable to a claimant on an indivisible claim for the same injury, death or harm, the liability of such persons shall be joint and several.

Sec. 403. Section 4, chapter 85, Laws of 1977 ex. sess. as last amended by section 5, chapter 218, Laws of 1984 and RCW 51.24.060 are each amended to read as follows:

(1) If the injured worker or beneficiary elects to seek damages from the third person, any recovery made shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the injured worker or beneficiary and the department and/or self-insurer;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award: PROVIDED, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department and/or self-insurer shall be paid the balance of the recovery made, but only to the extent necessary to reimburse the department and/or self-insurer for compensation and benefits paid;

(i) The department and/or self-insurer shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the worker or beneficiary to the extent of the benefits paid or payable under this title: PROVIDED, That the department or self-insurer may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees.

(ii) The sum representing the department's and/or self-insurer's proportionate share shall not be subject to subsection (1) (d) and (e) of this section.

(d) Any remaining balance shall be paid to the injured worker or beneficiary;

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department and/or self-insurer for such injury until the amount of any further compensation and benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person;

(f) If the employer or a co-employee are determined under section 401 of this 1986 act to be at fault, (c) and (e) of this subsection do not apply and benefits shall be paid by the department and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person.

(2) The recovery made shall be subject to a lien by the department and/or self-insurer for its share under this section.

(3) The department or self-insurer has sole discretion to compromise the amount of its lien. In deciding whether or to what extent to compromise its lien, the department or self-insurer shall consider at least the following:

(a) The likelihood of collection of the award or settlement as may be affected by insurance coverage, solvency, or other factors relating to the third person;

(b) Factual and legal issues of liability as between the injured worker or beneficiary and the third person. Such issues include but are not limited to possible contributory negligence and novel theories of liability; and

(c) Problems of proof faced in obtaining the award or settlement.

(4) In the case of an employer not qualifying as a self-insurer, the department shall make a retroactive adjustment to such employer's experience

rating in which the third party claim has been included to reflect that portion of the award or settlement which is reimbursed for compensation and benefits paid and, if the claim is open at the time of recovery, applied against further compensation and benefits to which the injured worker or beneficiary may be entitled.

(5) In an action under this section, the self-insurer may act on behalf and for the benefit of the department to the extent of any compensation and benefits paid or payable from state funds.

(6) It shall be the duty of the person to whom any recovery is paid before distribution under this section to advise the department or self-insurer of the fact and amount of such recovery, the costs and reasonable attorneys' fees associated with the recovery, and to distribute the recovery in compliance with this section.

(7) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by registered or certified mail, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such worker or beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the injured worker or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee of five dollars, which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the injured worker or beneficiary within three days of filing with the clerk.

(8) The director, or the director's designee, may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice and order to withhold and deliver property of any kind if he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state,

property which is due, owing, or belonging to any worker or beneficiary upon whom a warrant has been served by the department for payments due to the state fund. The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy, or by any authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount claimed by the director in the notice together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer to all exemptions provided for by chapter 7.33 RCW to which the wage earner may be entitled.

PART V LIMITATION OF ACTIONS

NEW SECTION. Sec. 501. A new section is added to chapter 4.24 RCW to read as follows:

It is a complete defense to any action for damages for personal injury or wrongful death that the person injured or killed was engaged in the commission of a felony, if the felony was causally related to the injury or death in time, place, or activity. However, nothing in this section shall affect a right of action under 42 U.S.C. Sec. 1983.

Sec. 502. Section 1, chapter 80, Laws of 1971 as amended by section 1, chapter 56, Laws of 1975-'76 2nd ex. sess. and RCW 4.16.350 are each amended to read as follows:

Any civil action for damages for injury occurring as a result of health care which is provided after June 25, 1976 against:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a physician, osteopathic physician, dentist, nurse, optometrist, podiatrist, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his estate or personal representative;

(2) An employee or agent of a person described in subsection (1) of this section, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subsection (1) of this section, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his employment, including, in the event such officer, director, employee, or agent is deceased, his estate or personal representative;

based upon alleged professional negligence shall be commenced within three years of the act or omission alleged to have caused the injury or condition, or one year of the time the patient or his representative discovered or reasonably should have discovered that the injury or condition was caused by said act or omission, whichever period expires later, except that in no event shall an action be commenced more than eight years after said act or omission; PROVIDED, That the time for commencement of an action is tolled upon proof of fraud, intentional concealment, or the presence of a foreign body not intended to have a therapeutic diagnostic purpose or effect.

For purposes of this section, notwithstanding RCW 4.16.190, the knowledge of a custodial parent or guardian shall be imputed to a person under the age or eighteen years. Any action not commenced in accordance with this section shall be barred(~~(-PROVIDED, That the limitations in this section shall not apply to persons under a legal disability as defined in RCW 4.16.190)).~~

PART VI INDEMNIFICATION AGREEMENTS

Sec. 601. Section 2, chapter 46, Laws of 1967 ex. sess. and RCW 4.24.115 are each amended to read as follows:

A covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, purporting to indemnify against liability for damages arising out of bodily injury to persons or damage to property:

(1) Caused by or resulting from the sole negligence of the indemnitee, his agents or employees is against public policy and is void and unenforceable;

(2) Caused by or resulting from the concurrent negligence of (a) the indemnitee or the indemnitee's agents or employees, and (b) the indemnitor

or the indemnitor's agents or employees, is valid and enforceable only to the extent of the indemnitor's negligence and only if the agreement specifically and expressly provides therefor, and may waive the indemnitor's immunity under industrial insurance, Title 51 RCW, only if the agreement specifically and expressly provides therefor and the waiver was mutually negotiated by the parties. This subsection applies to agreements entered into after the effective date of this 1986 section.

PART VII BUILDER LIMITATION

Sec. 701. Section 2, chapter 43, Laws of 1955 and RCW 4.16.160 are each amended to read as follows:

The limitations prescribed in this chapter shall apply to actions brought in the name or for the benefit of any county or other municipality or quasimunicipality of the state, in the same manner as to actions brought by private parties: PROVIDED, That, except as provided in RCW 4.16-.310, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim of right predicated upon the lapse of time shall ever be asserted against the state: **AND FURTHER PROVIDED,** That no previously existing statute of limitations shall be interposed as a defense to any action brought in the name or for the benefit of the state, although such statute may have run and become fully operative as a defense prior to February 27, 1903, nor shall any cause of action against the state be predicated upon such a statute.

Sec. 702. Section 2, chapter 75, Laws of 1967 and RCW 4.16.310 are each amended to read as follows:

All claims or causes of action as set forth in RCW 4.16.300 shall accrue, and the applicable statute of limitation shall begin to run only during the period within six years after substantial completion of construction, or during the period within six years after the termination of the services enumerated in RCW 4.16.300, whichever is later. The phrase "substantial completion of construction" shall mean the state of completion reached when an improvement upon real property may be used or occupied for its intended use. Any cause of action which has not accrued within six years after such substantial completion of construction, or within six years after such termination of services, whichever is later, shall be barred: **PROVIDED,** That this limitation shall not be asserted as a defense by any owner, tenant or other person in possession and control of the improvement at the time such cause of action accrues. The limitations prescribed in this section apply to all claims or causes of action as set forth in RCW 4.16.300 brought in the name or for the benefit of the state which are made or commenced after the effective date of this 1986 section.

Sec. 703. Section 1, chapter 75, Laws of 1967 and RCW 4.16.300 are each amended to read as follows:

RCW 4.16.300 through 4.16.320 shall apply to all claims or causes of action of any kind against any person, arising from such person having constructed, altered or repaired any improvement upon real property, or having performed or furnished any design, planning, surveying, architectural or construction or engineering services, or supervision or observation of construction, or administration of construction contracts for any construction, alteration or repair of any improvement upon real property. This section is intended to benefit only those persons referenced herein and shall not apply to claims or causes of action against manufacturers.

PART VIII PERIODIC PAYMENTS

NEW SECTION. Sec. 801. A new section is added to chapter 4.56 RCW to read as follows:

(1) In an action based on fault seeking damages for personal injury or property damage in which a verdict or award for future economic damages of at least one hundred thousand dollars is made, the court or arbitrator shall, at the request of a party, enter a judgment which provides for the periodic payment in whole or in part of the future economic damages. With respect to the judgment, the court or arbitrator shall make a specific finding as to the dollar amount of periodic payments intended to compensate the judgment creditor for the future economic damages.

(2) Prior to entry of judgment, the court shall request each party to submit a proposal for periodic payment of future economic damages to compensate the claimant. Proposals shall include provisions for: The name of the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, the number of payments or the period of time over which the payments shall be made, modification for hardship or unforeseen circumstances, posting of adequate security, and any other factor the court deems relevant under the circumstances. After each party has submitted a proposal, the court shall select the proposal, with any changes the court deems proper, which in the discretion of the court and the interests of justice best provides for the future needs of the claimant and enter judgment accordingly.

(3) If the court enters a judgment for periodic payments and any security required by the judgment is not posted within thirty days, the court shall enter a judgment for the payment of future damages in a lump sum.

(4) If at any time following entry of judgment for periodic payments, a judgment debtor fails for any reason to make a payment in a timely fashion according to the terms of the judgment, the judgment creditor may petition the court for an order requiring payment by the judgment debtor of the outstanding payments in a lump sum. In calculating the amount of the lump sum judgment, the court shall total the remaining periodic payments due

and owing to the judgment creditor converted to present value. The court may also require payment of interest on the outstanding judgment.

(5) Upon the death of the judgment creditor, the court which rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages. Money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor.

(6) Upon satisfaction of a periodic payment judgment, any obligation of the judgment debtor to make further payments shall cease and any security posted pursuant to this section shall revert to the judgment debtor.

NEW SECTION. Sec. 802. Section 5, chapter 56, Laws of 1975-'76 2nd ex. sess. and RCW 4.56.240 are each repealed.

PART IX MISCELLANEOUS

NEW SECTION. Sec. 901. A new section is added to chapter 5.40 RCW to read as follows:

A breach of a duty imposed by statute, ordinance, or administrative rule shall not be considered negligence per se, but may be considered by the trier of fact as evidence of negligence; however, any breach of duty as provided by statute, ordinance, or administrative rule relating to electrical fire safety, the use of smoke alarms, or driving while under the influence of intoxicating liquor or any drug, shall be considered negligence per se.

NEW SECTION. Sec. 902. A new section is added to chapter 5.40 RCW to read as follows:

It is a complete defense to an action for damages for personal injury or wrongful death that the person injured or killed was under the influence of intoxicating liquor or any drug and that such condition contributed more than fifty percent to his or her injuries or death. If the amount of alcohol in a person's blood is shown by chemical analysis of his or her blood, breath, or other bodily substance to have been 0.10 percent or more by weight of alcohol in the blood, it is conclusive proof that the person was under the influence of intoxicating liquor.

NEW SECTION. Sec. 903. A new section is added to chapter 4.24 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a member of the board of directors or an officer of any nonprofit corporation 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.

(2) Nothing in this section shall limit or modify in any manner the duties or liabilities of a director or officer of a corporation to the corporation or the corporation's shareholders.

NEW SECTION. Sec. 904. A new section is added to chapter 4.24 RCW to read as follows:

A member of the board of directors or a superintendent of any school district 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. 905. A new section is added to chapter 7.70 RCW to read as follows:

Members of the board of directors or other governing body of a public or private hospital are not individually liable for injuries resulting from health care administered by a health care provider granted privileges to provide health care at the hospital unless the decision to grant the privilege to provide health care at the hospital constitutes gross negligence.

NEW SECTION. Sec. 906. A new section is added to chapter 48.22 RCW to read as follows:

The commissioner shall by regulation require insurers authorized to write casualty insurance in this state to form a market assistance plan to assist persons and other entities unable to purchase casualty insurance in an adequate amount from either the admitted market or nonadmitted market.

For the purpose of this section, a market assistance plan means a voluntary mechanism by insurers writing casualty insurance in this state in either the admitted or nonadmitted market to provide casualty insurance for a class of insurance designated in writing to the plan by the commissioner.

The bylaws and method of operation of any market assistance plan shall be approved by the commissioner prior to its operation.

A market assistance plan shall have a minimum of twenty-five insurers willing to insure risks within the class designated by the commissioner. If twenty-five insurers do not voluntarily agree to participate, the commissioner may require casualty insurers to participate in a market assistance plan as a condition of continuing to do business in this state. The commissioner shall make such a requirement to fulfill the quota of at least twenty-five insurers. The commissioner shall make his or her designation on the basis of the insurer's premium volume of casualty insurance in this state.

NEW SECTION. Sec. 907. A new section is added to chapter 48.19 RCW to read as follows:

The commissioner shall, in reviewing a casualty rate filing, determine in accordance with sound and reliable actuarial principles whether this act requires an insurer to grant its policyholders a credit in such casualty rate filing. Upon determining that data in support of such a credit is actuarially credible, the commissioner shall approve or disapprove such casualty rate filing in accordance therewith. The commissioner shall not approve any casualty rate that is inadequate, excessive, or unfairly discriminatory.

NEW SECTION. Sec. 908. The commissioner shall, as chairman of the tort reform study commission, require the task force to study the effectiveness of joint underwriting authorities throughout the United States to specifically determine:

(1) The price as it relates to a filed Insurance Services Organization rate;

(2) The solvency of such mechanisms;

(3) The effect it has on the admitted market;

(4) The effect it has on the nonadmitted market;

(5) The effect or availability on the voluntary market; and

(6) What effect it has on lines or classes of insurance not designated.

NEW SECTION. Sec. 909. The insurance commissioner shall submit a report to the legislature by January 1, 1991, on the effects of this act on insurance rates and the availability of insurance coverage and the impact on the civil justice system.

NEW SECTION. Sec. 910. Except as provided in sections 202 and 601 of this act and except for section 904 of this act, this act applies to all actions filed on or after August 1, 1986.

NEW SECTION. Sec. 911. 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. 912. Section 904 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 10, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 4, 1986

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 306

[Substitute House Bill No. 378]

RETIREMENT BENEFITS—POSTRETIREMENT COST OF LIVING ADJUSTMENTS

AN ACT Relating to postretirement cost of living adjustments; amending RCW 41.32-.485 and 41.40.198; adding a new section to chapter 43.88 RCW; making an appropriation; 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 43.88 RCW to read as follows:

The omnibus biennial operating appropriations act shall include an appropriation for the full amount that will be paid out during the biennium under any postretirement cost-of-living adjustment adopted after the effective date of this act.

Sec. 2. Section 2, chapter 96, Laws of 1979 ex. sess. and RCW 41.32-.485 are each amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, effective July 1, (~~1979~~) 1986, as a cost-of-living adjustment, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive, as the pension portion of that retirement allowance, less than (~~ten~~) thirteen dollars per month for each year of service creditable to the person whose service is the basis of the pension. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by (~~ten~~) thirteen dollars. Where the pension payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the retirement allowance of each beneficiary who either is receiving benefits pursuant to RCW 41.32.520 or 41.32.550 as of December 31, 1978, or commenced receiving a monthly retirement allowance under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 41.32.499(6) as of July 1, 1979, or July 1, 1980, for the affected beneficiaries. Such adjustment shall be calculated as follows:

(a) Retirement allowances to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those beneficiaries to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each beneficiary to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service.

(3) The provisions of subsections (1) and (2) of this section shall not be applicable to those receiving benefits pursuant to RCW 41.32.540 or 41.32-.760 through 41.32.825.

Sec. 3. Section 1, chapter 96, Laws of 1979 ex. sess. and RCW 41.40-.198 are each amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, effective July 1, ~~((1979))~~ 1986, as a cost-of-living adjustment, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive, as the pension portion of that retirement allowance, less than ~~((ten))~~ thirteen dollars per month for each year of service creditable to the person whose service is the basis of the pension. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by ~~((ten))~~ thirteen dollars. Where the pension payable was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

(2) The provisions of subsection (1) of this section shall not be applicable to those receiving benefits pursuant to RCW 41.40.220(1), 41.44.170(5), or 41.40.610 through 41.40.740. For persons who served as elected officials and whose accumulated employee contributions and credited interest was less than seven hundred fifty dollars at the time of retirement, the minimum benefit under subsection (1) of this section shall be ten dollars per month for each year of creditable service.

NEW SECTION. Sec. 4. There is appropriated five million three hundred thousand dollars, or so much thereof as may be necessary, from the general fund for the purposes of paying the cost-of-living adjustments provided in sections 2 and 3 of this 1986 act. Of this amount, two million dollars shall be deposited in the teachers' retirement fund and three million three hundred thousand dollars shall be deposited in the public employees' retirement fund.

NEW SECTION. Sec. 5. This act shall take effect on July 1, 1986.

Passed the House March 11, 1986.

Passed the Senate March 10, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 307

[Substitute House Bill No. 1967]

COUNTY FAIRS—NORTHERN STATE HOSPITAL TO BE LEASED AS A FAIR SITE—LEASE OF NONTRUST STATE LANDS

AN ACT Relating to county fairs; adding new sections to chapter 36.37 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 county fairs provide unique educational opportunities to the people of this state and are a public purpose. By helping counties acquire lands for county fairs, the legislature intends to preserve and enhance the educational opportunities of the people of this state.

NEW SECTION. Sec. 2. A new section is added to chapter 36.37 RCW to read as follows:

If requested by a county legislative authority, the department of natural resources shall negotiate a lease for any requested portion of the state lands directly adjacent to buildings on the Northern State Hospital site that were transferred to the department under chapter 178, Laws of 1974 ex. sess., if not otherwise prohibited, to the county to use for the purpose of establishing county fairgrounds. However, the portion to be leased shall be contiguous and compact, of an area not to exceed two hundred fifty acres and shall be segregated in such a manner that the remaining portion of these state lands can be efficiently managed by the department. The lease shall be for as long as the county is actually using the land as the site of the county fairgrounds. Notwithstanding chapter 178, Laws of 1974 ex. sess., the department shall charge the county the sum of one thousand dollars per year for the lease of such lands and this sum may be periodically adjusted to compensate the department for any increased costs in administration of the lease. The lease shall contain provisions directing payment of all assessments and authorizing the county to place any improvements on the leased lands if the improvements are consistent with the purposes of county fairs.

NEW SECTION. Sec. 3. A new section is added to chapter 36.37 RCW to read as follows:

If requested by a county legislative authority, an agency of the state managing state-owned lands, other than state trust lands, shall consider leasing a requested portion of these lands that are not used for any significant purpose and if not otherwise prohibited, to the county to be used as county fairgrounds. If it is determined that such a lease shall be made, the agency in setting lease charges shall consider the fair market return for leasing the land, the public benefit for leasing the land to the county for county fair purposes at a level below the fair market return, and other appropriate factors.

Passed the House March 8, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 308

[House Bill No. 1825]

TOURISM IN DISTRESSED AREAS—TALL SHIPS—PARKING FACILITIES ARE INDUSTRIAL DEVELOPMENT FACILITIES

AN ACT Relating to tourism in distressed areas; and amending RCW 67.28.210 and 39.84.020.

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

Sec. 1. Section 14, chapter 236, Laws of 1967 as last amended by section 5, chapter 222, Laws of 1979 ex. sess. and RCW 67.28.210 are each amended to read as follows:

All taxes levied and collected under RCW 67.28.180 shall be credited to a special fund in the treasury of the county or city imposing such tax. Such taxes shall be levied only for the purpose of paying all or any part of the cost of acquisition, construction, or operating of stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities or to pay or secure the payment of all or any portion of general obligation bonds or revenue bonds issued for such purpose or purposes under this chapter, or to pay for advertising, publicizing, or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion when a county or city has imposed such tax for such purpose, or as one of the purposes hereunder, and until withdrawn for use, the moneys accumulated in such fund or funds may be invested in interest bearing securities by the county or city treasurer in any manner authorized by law. In addition such taxes may be used to develop strategies to expand tourism in distressed areas, as defined in RCW 43.165.010: PROVIDED, That any county, and any city within a county, bordering upon Grays Harbor may use the proceeds of such taxes for construction and maintenance of a movable tall ships tourist attraction in cooperation with a tall ships restoration society, except to the extent that such proceeds are used for payment of principal and interest on debt incurred prior to the effective date of this 1986 act.

Sec. 2. Section 2, chapter 300, Laws of 1981 as last amended by section 1, chapter 439, Laws of 1985 and RCW 39.84.020 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 of directors" means the board of directors of a public corporation.

(2) "Construction" or "construct" means construction and acquisition, whether by devise, purchase, gift, lease, or otherwise.

(3) "Facilities" means land, rights in land, buildings, structures, docks, wharves, machinery, transmission equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(4) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(5) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement; and "to improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(6) "Industrial development facilities" means manufacturing, processing, research, production, assembly, warehousing, transportation, pollution control, solid waste disposal, energy facilities, sports facilities, parking facilities associated with industrial development facilities as defined in this section or with historic properties as defined in RCW 84.26.020 and industrial parks. For the purposes of this section, the term "sports facilities" shall not include facilities which are constructed for use by members of a private club or as integral or subordinate parts of a hotel or motel, or which are not available on a regular basis for general public use.

(7) "Industrial park" means acquisition and development of land as the site for an industrial park. For the purposes of this chapter, "development of land" includes the provision of water, sewage, drainage, or similar facilities, or of transportation, energy, or communication facilities, which are incidental to the use of the site as an industrial park, but does not include the provision of structures or buildings.

(8) "Municipality" means a city, town, county, or port district of this state.

(9) "Ordinance" means any appropriate method of taking official action or adopting a legislative decision by any municipality, whether known as a resolution, ordinance, or otherwise.

(10) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in an industrial development facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of an industrial development facility, including costs of studies assessing the feasibility of an industrial development facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(11) "Revenue bond" means a nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of financing an industrial development facility on an interim or permanent basis.

(12) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

Passed the House March 12, 1986.

Passed the Senate March 12, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 309

[Substitute Senate Bill No. 4479]

PUBLIC BROADCASTING FACILITIES ARE INDUSTRIAL DEVELOPMENT FACILITIES

AN ACT Relating to industrial development revenue bonds; and amending RCW 39.84.020.

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

Sec. 1. Section 2, chapter 300, Laws of 1981 as last amended by section 1, chapter 439, Laws of 1985 and RCW 39.84.020 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 of directors" means the board of directors of a public corporation.

(2) "Construction" or "construct" means construction and acquisition, whether by devise, purchase, gift, lease, or otherwise.

(3) "Facilities" means land, rights in land, buildings, structures, docks, wharves, machinery, transmission equipment, public broadcast equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(4) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(5) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement; and "to improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(6) "Industrial development facilities" means manufacturing, processing, research, production, assembly, warehousing, transportation, public broadcasting, pollution control, solid waste disposal, energy facilities, sports facilities, and industrial parks. For the purposes of this section, the term "sports facilities" shall not include facilities which are constructed for use by members of a private club or as integral or subordinate parts of a hotel or motel, or which are not available on a regular basis for general public use.

(7) "Industrial park" means acquisition and development of land as the site for an industrial park. For the purposes of this chapter, "development of land" includes the provision of water, sewage, drainage, or similar facilities, or of transportation, energy, or communication facilities, which are incidental to the use of the site as an industrial park, but does not include the provision of structures or buildings.

(8) "Municipality" means a city, town, county, or port district of this state.

(9) "Ordinance" means any appropriate method of taking official action or adopting a legislative decision by any municipality, whether known as a resolution, ordinance, or otherwise.

(10) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in an industrial development facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of an industrial development facility, including costs of studies assessing the feasibility of an industrial development facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(11) "Revenue bond" means a nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of financing an industrial development facility on an interim or permanent basis.

(12) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 310

[Substitute Senate Bill No. 4676]

WORKER RIGHT TO KNOW FUND—EMPLOYER ASSESSMENTS, FEES,
PENALTIES

AN ACT Relating to worker right to know fund; amending RCW 49.70.170; and adding a new section to chapter 49.70 RCW.

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

Sec. 1. Section 24, chapter 289, Laws of 1984 and RCW 49.70.170 are each amended to read as follows:

(1) The worker and community right to know fund is hereby established in the custody of the state treasurer. The department shall deposit all moneys received under this chapter in the fund. Moneys in the fund may be spent only for the purposes of this chapter following legislative appropriation. Disbursements from the fund shall be on authorization of the director or the director's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW.

(2) The department shall ~~((after July 1, 1985, assess each employer a fee of seventy-five cents per employee to provide for the implementation of the provisions of this chapter. After this initial assessment, the fees shall be based on a fee schedule developed by the department and shall be collected only from those employers who have hazardous substances present at their workplaces))~~ assess each employer who reported ten thousand four hundred or more worker hours in the prior calendar year an annual fee to provide for the implementation of this chapter. The department shall promulgate rules establishing a fee schedule for all employers who reported ten thousand four hundred or more worker hours in the prior calendar year and are engaged in business operations having a standard industrial classification, as designated in the standard industrial classification manual prepared by the federal office of management and budget, within major group numbers 01 through 08 (agriculture and forestry industries), numbers 10 through 14 (mining industries), numbers 15 through 17 (construction industries), numbers 20 through 39 (manufacturing industries), numbers 41, 42, and 44 through 49 (transportation, communications, electric, gas, and sanitary services), number 75 (automotive repair, services, and garages), number 76 (miscellaneous repair services), number 80 (health services), and number 82 (educational services). The department shall establish the annual fee for each employer who reported ten thousand four hundred or more worker hours in the prior calendar year in industries identified by this section, provided that fees assessed shall not be more than two dollars and fifty cents per full time equivalent employee. The annual fee shall not exceed fifty thousand dollars. The fees shall be collected solely from employers whose industries have been identified by rule under this chapter. The department shall promulgate rules allowing employers who do not have hazardous substances at their workplace to request an exemption from the assessment and shall establish penalties for fraudulent exemption requests. All fees collected by the department pursuant to this section shall be collected in a cost-efficient manner and shall be deposited in the fund.

(3) Records required by this chapter shall at all times be open to the inspection of the director, or his designee including, the traveling auditors, agents or assistants of the department provided for in RCW 51.16.070 and

51.48.040. The information obtained from employer records under the provisions of this section shall be subject to the same confidentiality requirements as set forth in RCW 51.16.070.

(4) An employer may appeal the assessment of the fee or penalties pursuant to the procedures set forth in chapter ((49.17)) Title 51 RCW and accompanying rules except that the employer shall not have the right of appeal to superior court as provided in chapter ((49.17)) Title 51 RCW. The employer from whom the fee or penalty is demanded or enforced, may however, within thirty days of the board of industrial insurance appeal's final order, pay the fee or penalty under written protest setting forth all the grounds upon which such fee or penalty is claimed to be unlawful, excessive or otherwise improper and thereafter bring an action in superior court against the department to recover such fee or penalty or any portion of the fee or penalty which was paid under protest.

(5) Repayment shall be made to the general fund of any moneys appropriated by law in order to implement this chapter.

NEW SECTION. Sec. 2. A new section is added to chapter 49.70 RCW to read as follows:

If payment of any fee assessed under RCW 49.70.170 is not received by the department by the due date, there shall be assessed a penalty of five percent of the amount of the fee. If the fee is not received within thirty days after the due date, there shall be assessed a total penalty of ten percent of the amount of the fee. If the fee is not received within sixty days after the due date, there shall be assessed a total penalty of twenty percent of the amount of the fee. No penalty added may be less than ten dollars. If a warrant is issued by the department for the collection of fees, penalties, and interest, there shall be an additional penalty of five percent of the amount of the fee, but not less than five dollars nor more than one hundred dollars. Warrants shall earn interest at the rate of one percent per month, or fraction thereof, from and after the date of entry of the warrant. The department may utilize the procedures for collection of fees, penalties, and interest set forth in Title 51 RCW.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 311

[Engrossed Substitute Senate Bill No. 4898]

FIRE PROTECTION DISTRICT CONTRACT AUTHORITY REVISED

AN ACT Relating to fire protection by fire protection districts, the department of natural resources, and the department of game on unprotected lands; amending RCW 52.12.031; and adding a new section to chapter 52.12 RCW.

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

Sec. 1. Section 20, chapter 34, Laws of 1939 as last amended by section 1, chapter 238, Laws of 1984 and RCW 52.12.031 are each amended to read as follows:

Any fire protection district organized under this title may:

(1) Lease, acquire, own, maintain, operate, and provide fire and emergency medical apparatus and all other necessary or proper facilities, machinery, and equipment for the prevention and suppression of fires, the providing of emergency medical services and the protection of life and property;

(2) Lease, acquire, own, maintain, and operate real property, improvements, and fixtures for housing, repairing, and maintaining the apparatus, facilities, machinery, and equipment described in subsection (1) of this section;

(3) Contract with any governmental entity or private person or entity to consolidate, provide, or cooperate for fire prevention protection, fire suppression, and emergency medical purposes. In so contracting, the district or governmental entity is deemed for all purposes to be acting within its governmental capacity. This contracting authority includes the furnishing of fire prevention, fire suppression, emergency medical services, facilities, and equipment to or by the district, governmental entity, or private person or entity;

(4) Encourage uniformity and coordination of fire protection district operations. The fire commissioners of fire protection districts may form an association to secure information of value in suppressing and preventing fires and other district purposes, to hold and attend meetings, and to promote more economical and efficient operation of the associated fire protection districts. The commissioners of fire protection districts in the association shall adopt articles of association or articles of incorporation for a nonprofit corporation, select a chairman, secretary, and other officers as they may determine, and may employ and discharge agents and employees as the officers deem convenient to carry out the purposes of the association. The expenses of the association may be paid from funds paid into the association by fire protection districts: PROVIDED, That the aggregate contributions made to the association by a district in a calendar year shall not exceed two and one-half cents per thousand dollars of assessed valuation;

(5) Enter into contracts to provide group life insurance for the benefit of the personnel of the fire districts;

(6) Perform building and property inspections that the district deems necessary to provide fire prevention services and pre-fire planning within the district and any area that the district serves by contract in accordance with RCW 19.27.110: PROVIDED, That codes used by the district for building and property inspections shall be limited to the applicable codes adopted by the state, county, city, or town that has jurisdiction over the area in which

the property is located. A copy of inspection reports prepared by the district shall be furnished by the district to the appropriate state, county, city, or town that has jurisdiction over the area in which the property is located: **PROVIDED**, That nothing in this subsection shall be construed to grant code enforcement authority to a district. This subsection shall not be construed as imposing liability on any governmental jurisdiction;

(7) Determine the origin and cause of fires occurring within the district and any area the district serves by contract. In exercising the authority conferred by this subsection, the fire protection district and its authorized representatives shall comply with the provisions of RCW 48.48.060;

(8) Perform acts consistent with this title and not otherwise prohibited by law.

NEW SECTION. Sec. 2. A new section is added to chapter 52.12 RCW to read as follows:

Fire protection districts in proximity to land protected by a state agency are encouraged to enter into mutually beneficial contracts covering reciprocal response arrangements. In the absence of such a contractual agreement, a fire protection district that takes immediate action on such land outside of its jurisdictional boundaries, if such immediate response could prevent the spread of the fire onto lands protected by the district, shall be reimbursed by the state agency for its reasonable fire suppression costs that are incurred until the responsible agency takes charge, but in no event shall the costs exceed a twenty-four hour period. A fire protection district suppressing a fire on such lands shall as soon as practicable notify the responsible agency. The state agency shall not be responsible to pay such reimbursement if it is not so notified.

Reasonable efforts shall be taken to protect evidence of the fire's origin. The state agency shall not be responsible to pay such reimbursement if reasonable efforts are not taken to protect such evidence.

Requests for reimbursement shall be submitted within thirty days of the complete suppression of the fire. Reasonable costs submitted for reimbursement include all salaries and expenses of personnel, equipment, and supplies and shall take into consideration the amount of compensation, if any, paid by the fire protection district to its fire fighters.

Passed the Senate March 9, 1986.

Passed the House March 6, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 312

[Engrossed Substitute Senate Bill No. 4762]
SUPPLEMENTAL BUDGET

AN ACT Relating to state fiscal matters; amending RCW 41.05.040; amending section 110, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 121, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 123, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 127, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 129, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 134, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 130, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 143, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 201, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 203, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 205, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 206, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 207, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 208, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 211, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 213, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 214, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 215, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 217, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 221, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 222, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 223, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 224, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 226, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 228, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 301, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 303, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 310, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 312, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 314, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 315, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 401, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 402, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 10, chapter 460, Laws of 1985 ex. sess. (uncodified); amending section 501, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 503, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 504, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 506, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 509, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 510, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 514, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 516, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 603, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 604, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 605, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 607, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 608, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 609, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 701, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 702, chapter 6, Laws of 1985 ex. sess. as amended by section 1, chapter 1, Laws of 1986 (uncodified); amending section 706, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 711, chapter 6, Laws of 1985 ex. sess. (uncodified); amending section 201, chapter 373, Laws of 1985 (uncodified); amending section 256, chapter 373, Laws of 1985 (uncodified); amending section 312, chapter 373, Laws of 1985 (uncodified); amending section 591, chapter 373, Laws of 1985 (uncodified); amending section 374, chapter 373, Laws of 1985 (uncodified); amending section 716, chapter 373, Laws of 1985 (uncodified); reenacting and amending RCW 43.19.610; adding new sections to chapter 373, Laws of 1985; adding new sections to chapter 6, Laws of 1985 ex. sess.; creating new sections; repealing section 3, chapter 50, Laws of 1984 (uncodified); making appropriations; and declaring an emergency.

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

PART I
GENERAL GOVERNMENT

Sec. 101. Section 107, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPREME COURT

	FY 1986	FY 1987
General Fund Appropriation \$	4,436,000	((4,436,000)) <u>4,651,000</u>
Total Appropriation	\$(8,872,000)) <u>9,087,000</u>	

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

(1) \$1,314,000 of the fiscal year 1986 appropriation and \$1,314,000 of the fiscal year 1987 appropriation are provided solely for the indigent appeals program.

(2) \$215,000 of the appropriation is provided solely for the twelve-month project ABLE (Appellate Backlog Elimination). The funds are to be expended during the twelve months of the project in divisions I and II of the court of appeals.

Sec. 102. Section 110, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS

	FY 1986	FY 1987
General Fund Appropriation \$	9,552,000	((9,501,000)) <u>9,752,000</u>
General Fund—Public Safety and Education Account Ap- propriation \$	((7,219,000)) <u>6,998,000</u>	((6,619,000)) <u>5,733,000</u>
Total Appropriation	\$(32,891,000)) <u>32,035,000</u>	

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

(1) A maximum of \$5,767,000 of the fiscal year 1986 general fund appropriation and \$5,767,000 of the fiscal year 1987 general fund appropriation may be spent for the superior court judges.

(2) ~~\$(50,000))~~ 123,000 of the general fund appropriation for fiscal year 1987 is provided solely for the additional costs associated with the newly created superior court judges positions in ~~((accordance with Substitute Senate Bill No. 3165. If SSB 3165 is not enacted by July 1, 1985, this appropriation shall lapse))~~ chapter 357, Laws of 1985.

(3) \$1,456,000 of the fiscal year 1986 and \$1,456,000 of the fiscal year 1987 general fund—state appropriation are provided solely for the continuation of the alternatives to street crime programs in Pierce, Snohomish, Clark, King, Spokane and Yakima counties. All property which has been received by the department of corrections from contractors for these programs shall be delivered to the custody of the administrator for the courts.

(4) \$122,000 of the fiscal year 1986 and \$121,000 of the fiscal year 1987 general fund—state appropriation are provided solely for community diversion programs.

(5) ~~\$(100,000))~~ 278,000 of the general fund appropriation is provided solely for allocation to the superior court of Thurston county to relieve the impact of litigation involving the state of Washington.

(6) If House Bill No. 1869 is not enacted before April 1, 1986, \$1,384,000 of the public safety and education account appropriation shall revert.

*Sec. 103. Section 121, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

	FY 1986	FY 1987
General Fund Appropriation \$	((7,939,000))	((6,861,000))
	<u>7,794,000</u>	<u>6,892,000</u>
Medical Aid Fund Appropriation . . . \$	50,000	50,000
Total Appropriation \$	((14,900,000))	<u>14,786,000</u>

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

(1) \$8,300 of the general fund appropriation is provided solely for payment of claims against the state of \$500 or less, under RCW 4.92.040.

~~(2) ((\$195,000 of the fiscal year 1986 and \$169,000 of the fiscal year 1987 general fund appropriation are provided solely for health care cost containment activities as provided in chapter — (SHB 1077 or SSB 4242), Laws of 1985. If neither bill is enacted by July 1, 1985, the amounts provided in this subsection shall revert.~~

~~(3)) \$69,000 of the fiscal year 1986 and \$38,000 of the fiscal year 1987 general fund appropriation are provided solely for jail population forecast activities as provided in chapter ((= (SB 3596))) 201, Laws of 1985. ((If SB 3596 is not enacted by July 1, 1985, the amounts provided in this subsection shall revert.~~

~~(4)) (3) \$1,000,000 of the fiscal year 1986 general fund—state appropriation is provided solely for grants to cities and counties for adjudication of serious traffic offenses as defined in section 2, chapter 110, Laws of 1984. The funding provided under this subsection is intended to assist cities and counties in becoming able to adjudicate these offenses without financial~~

assistance from the state. These grants shall be distributed using the eligibility and priority standards provided in sections 2 through 5 of chapter 110, Laws of 1984, after adjusting the dates specified in that chapter as appropriate to achieve the purpose of this subsection. These grants shall be limited to adjudication activities conducted on or before February 28, 1986.

(4) \$50,000 of the general fund—state appropriation for fiscal year 1986 is provided solely to pay defense costs in State v. Howard, Yakima County superior court no. 84-1-00953-1, that may become a liability of the state under the final decision of the state supreme court upon reconsideration of its decision in State v. Howard, 105 Wn.2d 71. This amount shall be placed in a reserve account, and the director shall pay to the attorney general such sums, if any, from the account as the attorney general from time to time certifies are required to be paid under the final decision. The director may transfer the balance of the reserve account to the appropriation for fiscal year 1987 as necessary to meet the certified payment requirements. Upon certification by the attorney general that the defense costs in the case have been fully paid, the balance remaining in the reserve account shall lapse.

(5) \$200,000 of the fiscal year 1987 general fund appropriation is provided solely for costs related to the governor's advisory council on education funding.

(6) (a) A study to assess the feasibility of establishing an office of state public defender for trial and appellate cases shall be undertaken, to include:

(i) A description of the current system for providing representation to persons accused of crime who would not otherwise be able to afford representation;

(ii) A proposal to establish a state defender program;

(iii) Recommendations for a manner of financing the program;

(iv) Standards and guidelines for determining who should be eligible to receive legal services under the program;

(v) Recommendations for a plan to provide counsel when a conflict of interest would prevent representation by attorneys in the program;

(vi) Standards and guidelines for determining maximum and minimum caseloads for attorneys in the program;

(vii) Recommendations for a plan to train attorneys in the program; and

(viii) Mandatory pro bono publico efforts by attorneys.

(b) The study group shall include the following:

(i) One member appointed by the association of Washington cities;

(ii) One member appointed by the Washington association of counties;

(iii) One member appointed by the Seattle-King county public defender;

(iv) One member appointed by Evergreen legal services;

(v) One member appointed by the Washington appellate defender association;

(vi) Two members appointed by the Washington association of prosecuting attorneys;

(vii) One member appointed by the office of the governor;

(viii) One retired judge designated by the chief justice of the supreme court; and

(ix) One member, appointed by the Washington defender association, who is a public defender in a county of the third class or smaller.

(c) The study shall be presented to the judiciary and ways and means committees of the senate and house of representatives no later than January 15, 1987.

*Sec. 103 was partially vetoed, see message at end of chapter.

Sec. 104. Section 123, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF PERSONNEL

	FY 1986	FY 1987
Department of Personnel Service		
Fund Appropriation \$	((5,807,000))	((5,850,000))
	<u>5,842,000</u>	<u>5,900,000</u>
State Employees' Insurance Fund		
Appropriation \$	885,000	933,000
Total Appropriation \$	((13,475,000))	
	<u>13,560,000</u>	

Sec. 105. Section 127, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE

	FY 1986	FY 1987
General Fund Appropriation \$	30,552,000	((29,305,000))
		<u>28,994,000</u>
General Fund—Hazardous Waste Control and Elimination Account Appropriation . . . \$	54,000	54,000
General Fund—Timber Tax Distribution Account Appropriation \$	1,469,000	1,469,000
Total Appropriation \$	((62,903,000))	
	<u>62,592,000</u>	

The appropriations in this section are subject to the following conditions and limitations: The department, in cooperation with the department of social and health services, shall seek a waiver from the federal department of agriculture to delay implementation of the sales tax exemption on food stamp purchases in accordance with Public Law 99-198.

Sec. 106. Section 129, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ 3,825,000	((3,869,000))
		<u>3,738,000</u>
General Fund Appropriation—		
Private/Local	\$ 30,000	30,000
General Fund—Motor Transport		
Account Appropriation	\$ 3,452,000	3,207,000
General Administration Facilities and Services Revolving Fund		
Appropriation	\$ 9,897,000	9,048,000
Total Appropriation	\$((33,358,000))	
		<u>33,227,000</u>

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

(1) The community college districts shall transfer to the motor transport account \$8,373 from the general local fund and \$34,469 from the local motor pool fund. These transfers shall be made in accordance with schedules provided by the office of financial management.

(2) ~~\$(131,000 for fiscal year 1986 and \$175,000 for fiscal year 1987)~~ 115,000 of the general fund—state appropriation ~~((are))~~ is provided solely to continue storage and transportation activities in connection with the surplus commodities distribution program of the federal department of agriculture. If federal funding for this purpose is continued after September 30, ~~((1985))~~ 1986, this appropriation shall lapse.

(3) \$136,411 of the fiscal year 1986 and \$136,411 of the fiscal year 1987 general fund appropriation are provided solely for the operation of the risk management office.

(4) \$109,425 of the fiscal year 1986 and \$109,425 of the fiscal year 1987 general fund appropriation are to fully implement ~~((Senate Bill No. 3569. If SB 3569 is not enacted by July 1, 1985, this appropriation shall lapse))~~ chapter 188, Laws of 1985.

(5) \$150,000 of the fiscal year 1986 and \$150,000 of the fiscal year 1987 general fund—state appropriation are provided solely for energy retrofit studies.

(6) Not later than December 1, 1986, the department shall submit to the legislature an interim plan for the relocation of offices of the department of natural resources now located in the John A. Cherberg building. The interim plan shall not include design or construction of the proposed natural resources building but shall include one or more specific proposals to lease appropriate space within the Olympia area to house the offices now located in the Cherberg building.

Sec. 107. Section 130, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE INSURANCE COMMISSIONER

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	4,332,000	((4,332,000)) 1,013,000
<u>Insurance Commissioner's Regula-</u> <u>tory Account \$</u>		4,082,000
Total Appropriation \$	((8,764,000)) 9,427,000	

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

(1) If Senate Bill No. 3636 is not enacted prior to June 30, 1986, the appropriation from the insurance commissioner regulatory account shall lapse and the fiscal year 1987 general fund appropriation shall be \$4,332,000.

(2) A portion of the fiscal year 1986 and \$929,000 of the fiscal year 1987 general fund—state appropriations shall be transferred to the department of community development to support activities related to the state fire marshal. The exact amount of the fiscal year 1986 appropriation to be transferred shall be negotiated by the insurance commissioner and the director of community development, with the approval of the director of financial management.

(3) \$100,000 of the insurance commissioner's regulatory account appropriation is provided solely for a legal action task force, including legislative participation, to collect and review data relevant to Washington's experience in tort law and to recommend any changes needed to improve the availability and affordability of liability insurance.

(4) \$84,000 of the fiscal year 1987 general fund appropriation is provided solely to regulate health maintenance organizations.

Sec. 108. Section 134, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE UNIFORM LEGISLATION COMMISSION

	FY 1986	FY 1987
General Fund Appropriation \$	12,000	((2,000)) 17,000
Total Appropriation \$	((+4,000)) 29,000	

The appropriation in this section is subject to the following conditions and limitations: ~~\$((+0,000 is))~~ 9,800 of the fiscal year 1986 appropriation and \$9,800 of the fiscal year 1987 appropriation are provided solely for

Washington state's contribution to the national conference of commissioners on uniform state laws.

Sec. 109. Section 143, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF EMERGENCY MANAGEMENT

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	((518,000))	((518,000))
	<u>529,000</u>	<u>594,000</u>
General Fund Appropriation—		
Federal \$	((2,715,000))	((2,715,000))
	<u>2,423,000</u>	<u>2,304,000</u>
Total Appropriation \$	((6,466,000))	((6,466,000))
	<u>5,850,000</u>	

The appropriations in this section are subject to the following conditions and limitations: \$30,000 of the general fund—state appropriation is provided solely for emergency medical treatment services for protecting the lives and safety of Washington residents as well as visitors to the Mt. St. Helens area.

NEW SECTION. Sec. 110. A new section is added to chapter 6, Laws of 1985 ex. sess to read as follows:

The legislative budget committee shall prepare a comprehensive report on the issuance of state debt. Among other things, such report shall address the following: (1) Given the inflation rates, interests rates, and the costs of issuing debt, when is it prudent for the state to use a "pay as you go" approach, instead of borrowing? (2) To what extent do other states use a "pay as you go" approach? (3) What devices, if any, do other states use to limit their costs of issuing debt, including underwriter, bond counsel, and financial adviser costs? (4) Would it be in the public interest to require that bond counsel costs for state general obligation bonds be paid from the state treasurer's appropriations, as opposed to from the proceeds of bond sales, and to require that bond counsel state their fees in dollars per hour of services provided? (5) To what extent are bond proceeds used to pay operating costs that could be paid from the general fund?

**PART II
HUMAN SERVICES**

*Sec. 201. Section 201, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

(1) COMMUNITY SERVICES

FY 1986	FY 1987
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General Fund Appropriation	\$ ((27,799,000))	((27,816,000))
	<u>27,349,000</u>	<u>27,366,000</u>
Total Appropriation	\$((55,615,000))	
	<u>54,715,000</u>	

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

(a) \$15,226,000 is provided for fiscal year 1986 and \$15,243,000 is provided for fiscal year 1987 to provide community supervision services. The department shall develop workload standards for meeting the requirements of chapter 9.94A RCW and shall report to the legislature such workload standards and actual results on June 30, 1986, and annually thereafter.

(b) \$((11,351,000)) 10,901,000 is provided for fiscal year 1986 and \$((11,351,000)) 10,901,000 is provided for fiscal year 1987 to operate and/or contract with nonprofit corporations for work training release for convicted felons.

(c) \$1,122,000 is provided for fiscal year 1986 and \$1,122,000 is provided for fiscal year 1987 for support of the office of the director of community services. The director of community services shall monitor community corrections services provided and/or contracted for by other governmental jurisdictions in the state. The state director shall document such nonstate community corrections services as of July 1, 1985, for the purpose of establishing a basis upon which to evaluate current services, to assess any local program changes, and to identify emerging program needs.

(d) \$100,000 of the fiscal year 1986 and \$100,000 of the fiscal year 1987 general fund—state appropriation are provided solely for a program to notify 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.

(2) INSTITUTIONAL SERVICES

	FY 1986	FY 1987
General Fund Appropriation	\$ ((126,625,000))	((119,240,000))
	<u>127,275,000</u>	<u>121,190,000</u>
Total Appropriation	\$((245,865,000))	
	<u>248,465,000</u>	

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

(a) \$13,475,000 of the general fund—state appropriation is provided solely for operating the Clallam Bay corrections center, of which \$5,443,000 is provided for fiscal year 1986 and \$8,032,000 is provided for fiscal year 1987.

(b) \$502,000 of the fiscal year 1986 and \$502,000 of the fiscal year 1987 general fund—state appropriation are provided solely for drug and alcohol rehabilitation treatment programs at appropriate state correctional

institutions, as defined in RCW 72.01.050, for persons who: (i) Are defined as inmates under RCW 72.09.020; (ii) in the opinion of a qualified health professional designated by the department, are in need of such treatment; and (iii) have less than one year remaining in their confinement to a state correctional facility. Such programs may include facilities for both residential and outpatient treatment.

(c) The superintendents of each correctional institution, as defined in RCW 72.65.010, shall establish community-based volunteer alcohol and drug rehabilitation programs in their respective correctional institution. The superintendents shall encourage groups conducting such programs outside the institutions to participate in such programs inside the institution. An employee at each correctional institution shall be designated to coordinate the programs mandated in this subsection.

(d) \$620,000 of the fiscal year 1986 and \$620,000 of the fiscal year 1987 general fund—state appropriation are provided solely for contracting with counties for the use of county jail beds for state inmates.

(e) \$200,000 is provided solely for Snohomish county pursuant to Snohomish county v. State of Washington to cover local impact costs of the Twin Rivers corrections center.

(f) A maximum of \$500,000 of the general fund—state appropriation may be spent for the operation of Firlands corrections center.

(3) ADMINISTRATION AND PROGRAM SUPPORT

	FY 1986	FY 1987
General Fund Appropriation \$	((9,426,000))	8,527,000
	<u>9,226,000</u>	
General Fund—Institutional Impact Account Appropriation \$	150,000	150,000
Total Appropriation \$	((+8,253,000))	
	<u>18,053,000</u>	

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

(a) \$400,000 of the general fund appropriation is provided solely for the one-time cost impact to communities associated with locating additional state correctional facilities.

(b) The department shall report to the house and senate ways and means committees on January 1, 1986, and January 1, 1987, regarding its progress toward employing more minorities and women in top level management positions.

(4) INSTITUTIONAL INDUSTRIES

	FY 1986	FY 1987
General Fund Appropriation \$	2,039,000	((+766,000))
		<u>766,000</u>

Total Appropriation \$((3,805,000))
2,805,000

*Sec. 201 was partially vetoed, see message at end of chapter.

Sec. 202. Section 203, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—CHILDREN AND FAMILY SERVICES PROGRAM

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ ((64,335,000))	((63,290,000))
	<u>64,545,000</u>	<u>66,425,000</u>
General Fund Appropriation—		
Federal	\$ 24,343,000	26,095,000
Total Appropriation	\$((178,063,000))	
	<u>181,408,000</u>	

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

- (1) Vendor rate adjustments shall average 3% on January 1, 1986.
- (2) \$2,423,000 for fiscal year 1986 and \$3,231,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for phased-in increases in child protective services field staff.
- (3) \$116,000 for fiscal year 1986 and \$116,000 for fiscal year 1987 of the general fund—state appropriation are provided solely to expand the homebuilders program beyond current service levels.
- (4) \$185,000 for fiscal year 1986 and \$185,000 for fiscal year 1987 of the general fund—state appropriation are provided solely to expand services in the therapeutic day-care program beyond current levels.
- (5) \$516,000 for fiscal year 1986 and \$487,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for field staff increases in day-care screening, licensing, monitoring, and information and referral. The department shall conduct at least one scheduled and one unannounced on-site inspection of each licensed day-care facility during the facility's licensing period. The department shall make available to any parent, guardian, or custodian requesting information about day-care providers, for inspection and copying (with copying fees waivable in cases of hardship), any documents in its possession relating to any licensed day-care facility that are not exempt from public disclosure under chapter 42.17 RCW. The department shall require that every licensed day-care facility display prominently on its premises the address and telephone number of the appropriate local or regional office of the department and the name(s) of any department employee(s) responsible for the licensing and monitoring of the facility.

(6) \$3,654,000 for fiscal year 1986, of which \$3,370,000 is from the general fund—state appropriation, and \$3,654,000 for fiscal year 1987, of which \$3,370,000 is from the general fund—state appropriation, are provided solely to increase the safety and quality of care in children's group homes, including the conversion of at least 75 but not more than 143 beds for use in intensive residential treatment of severely disturbed youth at a monthly rate of \$2,100 per occupied bed, effective July 1, 1985. The department shall develop and implement written standards as to which children may be placed in residential treatment, clearly distinguishing the residential treatment population from the remaining group care population. As used in this subsection, "residential treatment" includes permanent planning for child placement, counseling of natural parents when appropriate, and recruiting, training, and counseling of adoptive or foster parents when appropriate, for which services the department may develop additional rates. The department shall develop a client outcome monitoring system as part of a specific plan for performance-based contracts whereby a portion of vendor payments for group care and residential treatment is contingent on vendor attainment of client outcome standards to be developed by the department. The plan shall be transmitted to the ways and means committees of the senate and house of representatives and the legislative budget committee by July 1, 1986, and scheduled for implementation on July 1, 1987, pending legislative review.

(7) \$615,000 for fiscal year 1986, of which \$554,000 is from the general fund—state appropriation, and \$615,000 for fiscal year 1987, of which \$554,000 is from the general fund—state appropriation, are provided solely to increase vendor rates for family foster care, effective July 1, 1985.

(8) \$50,000 for fiscal year 1986 and \$50,000 for fiscal year 1987 of the general fund—state appropriation are provided solely to increase private agency service fees in connection with foster care placements, effective July 1, 1985.

(9) \$17,000 for fiscal year 1986 and \$17,000 for fiscal year 1987 of the general fund—state appropriation are provided solely to increase vendor rates for group crisis residential centers, effective July 1, 1985.

(10) \$51,000 for fiscal year 1986 and \$51,000 for fiscal year 1987 of the general fund—state appropriation are provided solely to increase vendor rates for family interim care homes, effective July 1, 1985.

(11) \$139,000 for fiscal year 1986, of which \$132,000 is from the general fund—state appropriation, and \$139,000 for fiscal year 1987, of which \$132,000 is from the general fund—state appropriation, are provided solely to expand the children's hospitalization alternative program by up to 25 additional beds, including expansion into geographical areas not presently served.

(12) \$50,000 for fiscal year 1986 and \$50,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for emergency medical examinations of child protective services clients who are not eligible for federally matched medical assistance.

(13) ~~\$(455,000)~~ 910,000 of the general fund—state appropriation ~~((for fiscal year 1986))~~ is provided solely for contracted services to "street kids." For purposes of this subsection, "street kids" are children between the ages of eight and seventeen who do not receive care, shelter, or supervision from parents or other responsible adults, who are not placed in residential settings by the department, and who are living in a dangerous urban environment. Services may include street outreach, advocacy, counseling, and foster care. Not more than 150 "street kids" may receive services supported under this subsection from any single center at any one time. All programs receiving funds under this subsection shall provide cultural- and language-sensitive services to minority "street kids."

(14) ~~\$(11,241,000)~~ 11,451,000 for fiscal year 1986, of which ~~\$(7,976,000)~~ 8,186,000 is from the general fund—state appropriation, and ~~\$(11,370,000)~~ 13,960,000 for fiscal year 1987, of which ~~\$(6,381,000)~~ 8,971,000 is from the general fund—state appropriation, shall be initially allotted for day-care payments. ~~((The department shall revise program eligibility and/or participation criteria, consistent with statute, if necessary to prevent the overexpenditure of moneys allotted for the program in each fiscal year.))~~

(15) \$175,000 for fiscal year 1986 and \$175,000 for fiscal year 1987 from the general fund—state appropriation are provided solely for the victims of sexual assault program.

(16) \$90,000 from the general fund—state appropriation for fiscal year 1987 is provided solely for an education and training pilot project for the prevention of child abuse and neglect in inner-city Seattle. The department shall distribute these funds to the department of pediatrics at Harborview medical center. The project shall be evaluated by comparing the group of mothers served to a control group based on objective outcome measures such as episodes of abuse and neglect, evidence of failure to thrive, hospitalizations, anemia, immunization status, and the ratio of scheduled well-child visits to episodic drop-in visits. The department shall report to the legislature by January 1, 1987, on the status of the project.

Sec. 203. Section 205, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

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

(1) COMMUNITY SERVICES

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	49,275,000	50,057,000

General Fund Appropriation—		
Federal	\$ 17,930,000	18,178,000
General Fund Appropriation—		
Local	\$ 355,000	355,000
Total Appropriation	\$136,150,000	

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

(a) \$240,000 for fiscal year 1986 and \$240,000 for fiscal year 1987 from the general fund—state are provided solely for continuation of the community psychiatric training program at the University of Washington.

(b) \$309,000 for fiscal year 1986 and \$309,000 for fiscal year 1987 from the general fund—federal are provided solely for the continuation of the minority mental health program.

(c) \$565,000 for fiscal year 1986 of which \$500,000 is from the general fund—state appropriation and \$565,000 for fiscal year 1987 of which \$500,000 is from the general fund—state appropriation, is provided solely to increase the children's hospitalization alternative program by 25 additional beds to allow for increased service capacity and to extend the program to unserved areas within the state. The department shall not increase the number of beds over 85 in total.

(d) \$452,000 for fiscal year 1986, of which \$405,000 is from the general fund—state appropriation and \$783,000 for fiscal year 1987, of which \$689,000 is from the general fund—state appropriation are provided solely for the Kitsap (~~resources consolidated~~) mental health services residential treatment center's alternative project. Of the \$452,000 for fiscal year 1986, \$61,000 of the general fund—state appropriation is provided solely for initial program costs associated with implementation. The state reimbursement rate shall not exceed \$180 per client day and treatment for individual clients shall not exceed 180 days. All eligible involuntary treatment referrals will be made to the project. No involuntary treatment referrals of Kitsap county residents will be made to Western State Hospital after (~~December 31, 1985~~) March 31, 1986. The maximum reimbursement rate to Kitsap county private hospitals shall be \$250 per day per patient. Kitsap (~~resources consolidated~~) mental health services shall provide quarterly reports to the senate and house committees on ways and means describing the numbers and characteristics of clients served and resulting diversions from private hospitals and Western State Hospital. In addition, the department shall present an annual report to the same legislative committees beginning January 1, 1987, indicating progress made toward meeting the long-term residential bed needs of Kitsap County.

(e) \$280,000 from the fiscal year 1987 general fund—state appropriation is provided solely for the operation of the El Rey residential treatment facility for homeless mentally ill adults, effective January 1, 1987.

(f) \$350,000 for fiscal year 1987 from the general fund—state appropriation is provided solely for community mental health services for children in Spokane and Pierce counties who have been displaced from services due to impacts on the communities from institutional releases and the low priority assigned to children in the community mental health services act, chapter 71.24 RCW.

(g) Vendor rate adjustments shall average 3.0% on January 1, 1986.

(2) INSTITUTIONAL SERVICES

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ ((66,188,000))	((66,904,000))
	<u>67,607,000</u>	<u>71,085,000</u>
General Fund Appropriation—		
Federal	\$ ((3,103,000))	((3,116,000))
	<u>4,003,000</u>	<u>4,316,000</u>
Total Appropriation	\$((139,311,000))	
	<u>147,011,000</u>	

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

(a) \$814,000 for fiscal year 1986 and \$1,086,000 for fiscal year 1987 from the general fund—federal appropriation are provided solely for compliance with the Medicare survey of eastern state hospital.

(b) \$86,000 for fiscal year 1986 and \$114,000 for fiscal year 1987 from the general fund—federal appropriation are provided solely for continuation of five positions at the child study and treatment center added in the 1983-1985 biennium.

(c) \$1,419,000 for fiscal year 1986 and \$4,181,000 for fiscal year 1987 from the general fund—state appropriation are provided solely for compliance with the Medicare survey of western state hospital.

(d) \$20,000 for fiscal year 1986 and \$20,000 for fiscal year 1987 from the general fund—state appropriation are provided solely to conduct a study to develop alternatives for the long range use of Northern state hospital.

(e) \$15,000 for fiscal year 1986 and \$15,000 for fiscal year 1987 from the general fund—state appropriation are provided solely for a neurologically impaired service center pilot project to be established on the grounds of Northern state hospital.

(3) PROGRAM SUPPORT

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ 1,439,000	1,438,000
General Fund Appropriation—		
Federal	\$ 771,000	771,000
Total Appropriation	\$4,419,000	

The appropriations in this section are subject to the following conditions and limitations: \$38,000 for fiscal year 1986 and \$38,000 for fiscal year 1987 from the general fund—state appropriation are provided solely for an allocation to a nonprofit agency advocating for the mentally ill for the purposes of technical assistance to state agencies, educational programs, outreach and family support, self-help support groups, and patient advocacy.

(4) SPECIAL PROJECTS

	FY 1986	FY 1987
General Fund Appropriation—		
Federal	\$ 111,000	111,000
Total Appropriation	\$222,000	

Sec. 204. Section 206, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

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

(1) COMMUNITY SERVICES

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ 30,435,000	((30,969,000))
		<u>31,494,000</u>
General Fund Appropriation—		
Federal	\$ ((26,046,000))	((26,252,000))
	<u>26,678,000</u>	<u>27,040,000</u>
Total Appropriation	\$((+13,702,000))	
	<u>115,647,000</u>	

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

(a) \$56,000 for fiscal year 1986 and \$56,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for the dental education in care of the disabled graduate training program with the University of Washington.

(b) \$1,952,000 for fiscal year 1986 of which \$1,144,000 is from the general fund—state appropriation and \$1,952,000 for fiscal year 1987 of which \$1,144,000 is from the general fund—state appropriation, is provided solely to increase compensation for staff providing treatment and training in division contracted community residential and training programs. Contracts with vendors shall specify the amount of payments to be used solely for this purpose.

(c) Vendor rate adjustments shall average 3.0% on January 1, 1986.

(d) If House Bill No. 1702 or Substitute Senate Bill No. 4719 is enacted, creating 42 new community residential beds and/or placements, by June 30, 1986, \$525,000 for fiscal year 1987, of which \$505,000 is from the

general fund—state appropriation, is provided solely for the establishment of 16 additional community residential beds and/or placements for a combined total of 58 new community residential beds and/or placements which will result in the reduction of the average daily population at the Rainier school to not more than 563 by June 30, 1987: PROVIDED, That:

(i) The department shall develop an appropriate, cost-conscious configuration of community residential beds and/or placements within the funds appropriated;

(ii) If the net cost to develop the additional 16 community residential beds and/or placements is less than the amount contained in subsection (1)(d) of this section, the savings shall revert;

(iii) The department shall apply for a federal Title XIX waiver for financial participation for the residents transferred from the Rainier school to community living; and

(iv) If neither House Bill No. 1702 nor Substitute Senate Bill No. 4719 is enacted by June 30, 1986, the funds provided in this subsection (1)(d) shall revert.

(e) \$20,000 for fiscal year 1987 from the general fund—state appropriation is provided solely for continued support of the deaf/blind service center. This amount represents a transfer of moneys from the administration and supporting services program.

(2) INSTITUTIONAL SERVICES

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ 53,405,000	((52,812,000)) <u>47,562,000</u>
General Fund Appropriation—		
Federal	\$ ((37,330,000))	((37,330,000)) <u>40,620,000</u> <u>47,921,000</u>
Total Appropriation	\$((180,877,000))	<u>189,508,000</u>

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

(a) If Substitute Senate Bill No. 4658 is enacted by June 30, 1986, the secretary may transfer funds between the appropriations in subsections (1) and (2) of this section in order to provide program options as authorized in RCW 72.33.125. Any transfer of funds shall not reduce services to existing clients.

(b) If House Bill No. 1702 or Substitute Senate Bill No. 4719 is enacted on or before June 30, 1986:

(i) The department shall reduce the average daily population of the Rainier school to not more than 563 by June 30, 1987;

(ii) The secretary shall have beds in excess of the 563 level decertified in accordance with a plan developed with the federal health care financing administration; and

(iii) If the net cost of community residential beds and/or placements is less than that assumed in the cost estimate contained in subsection (1)(d) of this section for the transfer of Rainier school residents to community living, such savings shall revert.

(c) The department shall apply for a federal Title XIX waiver for financial participation for the residents transferred from the Rainier school to community living.

(d) If neither House Bill No. 1702 nor Substitute Senate Bill No. 4719 is enacted by June 30, 1986, the general fund—state appropriation in this subsection for fiscal year 1987 shall be increased by \$250,000 and the general fund—federal appropriation in this subsection for fiscal year 1987 shall be increased by \$250,000.

(e) Prior to the community placement of a resident of Rainier school pursuant to subsection (2) (b) through (d) of this section, the department shall ensure that the review process established by RCW 72.33.161 is utilized.

(f) The department shall, within existing resources, report to the legislature on factors affecting the placement of institutional clients into community settings. The report shall include a comparison of the characteristics and service requirements of Rainier school residents identified for community placement, to clients residing in community settings. The report shall include a cost comparison of proposed community services for Rainier residents identified for community placement to the costs of their continued institutional care. The report shall include the characteristics and numbers of clients returning to the six institutions from community placements and, to the extent possible, the reasons for their return. The department shall report these findings to the appropriate committees of the senate and house of representatives by December 1, 1986.

(3) PROGRAM SUPPORT

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ 1,652,000	1,652,000
General Fund Appropriation—		
Federal	\$ 388,000	388,000
Total Appropriation	\$4,080,000	

~~(((4) SPECIAL PROJECTS~~

	FY 1986	FY 1987
General Fund Appropriation—		
 State	\$ 54,000	54,000
General Fund Appropriation—		
 Federal	\$ 606,000	606,000

~~————— Total Appropriation \$1,320,000))~~

Sec. 205. Section 207, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—LONG-TERM CARE SERVICES

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	137,965,000	((132,964,000))
		<u>136,509,000</u>
General Fund Appropriation—		
Federal \$	120,741,000	((126,895,000))
		<u>129,895,000</u>
Total Appropriation	\$(518,565,000))	<u>525,110,000</u>

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

(1) The department shall provide an integrated system of long-term care services which will allow for the most efficient, equitable, and appropriate use of available resources. The department shall endeavor to provide these services in the least restrictive and most cost-effective manner appropriate for individual clients.

(2) \$187,048,000 for fiscal year 1986, of which \$94,078,000 is from the general fund—state appropriation, and ~~\$(188,104,000))~~ 194,104,000 for fiscal year 1987, of which ~~\$(94,610,000))~~ 97,610,000 is from the general fund—state appropriation, are provided for nursing home services.

~~(a) ((If Substitute Senate Bill No. 3390 is not enacted before July 1, 1985, \$2,500,000 in fiscal year 1986 and \$2,500,000 in fiscal year 1987 of the general fund—state appropriation shall be provided solely for full-scope audits under chapter 74.46 RCW as interpreted by the state auditor.~~

~~(b))~~ Rates shall be adjusted for inflation under RCW 74.46.495 by 3% on July 1, 1985, and on July 1, 1986.

~~((c))~~ (b) Adjustments to the clothing and personal incidentals allowance shall average 3% on January 1, 1986.

~~((d))~~ (c) \$65,000 for fiscal year 1986 and \$65,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for prospective rate increases for installation of sprinkler systems in facilities not meeting federal and state fire safety requirements.

(3) \$63,899,000 for fiscal year 1986, of which \$39,543,000 is from the general fund—state appropriation, and \$64,554,000 for fiscal year 1987, of which \$34,555,000 is from the general fund—state appropriation, are provided solely for community-based long-term care services including congregate care, adult family home care, chore services, home health care, nutrition services, transportation services, and case management services.

(a) Vendor rate adjustments shall average 3% on January 1, 1986.

(b) Adjustments to the clothing and personal incidentals allowance shall average 3% on January 1, 1986.

(c) \$80,000 for fiscal year 1986 and \$80,000 for fiscal year 1987 of the general fund—state appropriation are provided solely to purchase insurance coverage for adult family homes in order to promote participation in the program.

(d) \$41,000 for fiscal year 1986 and \$41,000 for fiscal year 1987 of the general fund—state appropriation are provided solely to extend eligibility for adult family home and congregate care services to adult protective services clients.

(e) \$200,000 for fiscal year 1986 and \$200,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for case management services under the senior citizen services act for adult protective services clients.

(f) \$7,558,000 for fiscal year 1986 and \$7,666,000 for fiscal year 1987 from the general fund—state appropriation shall be initially allotted for implementation of the senior citizens services act. At least 7 percent of the amount allotted for the senior citizens services act in each fiscal year shall be used for programs that utilize volunteer workers for the provision of chore services to persons whose need for chore services is not being met by the chore services program.

(g) \$39,225,000 for fiscal year 1986, of which \$25,611,000 is from the general fund—state appropriation, and \$39,286,000 for fiscal year 1987, of which \$19,762,000 is from the general fund—state appropriation, shall be initially allotted for chore services. The department shall revise eligibility and cost-sharing criteria and/or establish waiting lists for the chore services program, consistent with statute, if necessary to prevent the overexpenditure of moneys allotted for the program in each fiscal year, including state general fund moneys used to match federal moneys under the community options programs entry system.

(4) The bureau of nursing home affairs shall increase patient review staff by two full time equivalents not later than October 1, 1985.

(5) \$((~~545,000 for fiscal year 1986~~)) 1,090,000 of the general fund—state appropriation is provided solely to continue the three respite care demonstration projects as established and defined under chapter 158, Laws of 1984 until June 30, ((1986)) 1987.

*Sec. 206. Section 208, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—INCOME ASSISTANCE PROGRAM

FY 1986

FY 1987

General Fund Appropriation—

State	\$ ((213,137,000))	((224,186,000))
	<u>226,695,000</u>	<u>239,686,000</u>

General Fund Appropriation—

Federal	\$ ((171,118,000))	((178,924,000))
	<u>185,518,000</u>	<u>193,724,000</u>

Total Appropriation	\$((787,365,000))	
	<u>845,623,000</u>	

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

(1) The department shall continue the aid to families with dependent children program for two-parent families through June 30, 1987.

(2) Not later than October 1, 1985, 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.

(a) The process implementing such 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 uncontradicted medical opinion must set forth clear and convincing reasons for doing so.

(b) 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.

(3) Grant payment standards and vendor rates shall be increased by 3% on January 1, 1986, above the standards and rates in effect on March 1, 1985, for aid to families with dependent children, general assistance, consolidated emergency assistance, and refugee assistance.

(4) 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 \$100,000,000 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

(5) The department shall establish a study committee to examine the general assistance income and medical programs. The committee shall particularly examine the structure of the general assistance—unemployable program as it relates to treatment programs for alcoholism, mental illness, and substance abuse. The committee shall include representatives of affected

department programs, treatment providers, community advocacy groups, legal services, and the legislature. The committee shall examine alternative treatment or assistance methods which would help clients to overcome their illnesses, while providing necessary assistance. The report shall include detailed historical and projected income and medical caseload and cost information by client group. The report shall further identify policy changes, statutory or otherwise, which have affected caseload levels and costs. The department shall report the findings and recommendations of the study committee to the appropriate committees of the senate and house of representatives by January 15, 1987.

(6) The department, in cooperation with the department of revenue, shall seek a waiver to delay implementation of the sales tax exemption on food stamp purchases in accordance with Public Law 99-198.

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

*Sec. 207. Section 211, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

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

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	21,765,000	((21,646,000))
		<u>22,846,000</u>
General Fund Appropriation—		
Federal \$	((33,260,000))	((33,375,000))
	<u>34,317,000</u>	<u>35,718,000</u>
General Fund Appropriation—		
Local \$	4,024,000	3,996,000
General Fund Appropriation—		
State and Local Improve-		
ments Revolving Account—		
Water Supply Facilities: Ap-		
propriated pursuant to chapter		
234, Laws of 1979 ex. sess.		
(Referendum 38)—Appro-		
priation \$	22,444,000	22,444,000
General Fund Appropriation—		
State and Local Improve-		
ments Revolving Account—		
Water Supply Facilities: Ap-		
propriated pursuant to chapter		
128, Laws of 1972 ex. sess.		
(Referendum 27); chapter		
258, Laws of 1979 ex. sess.		
(chapter 43.99D RCW); and		

chapter 234, Laws of 1979 ex.

sess. (Referendum 38)——

Reappropriation	\$	28,908,000
Total Appropriation	\$	((+1,862,000))
		<u>196,462,000</u>

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

(1) No funds shall be expended directly or indirectly for the production or distribution of any materials regarding homosexual sex safety.

~~((2))~~ (2) Vendor rate adjustments shall average 3% on January 1, 1986.

~~((2))~~ (3) \$1,000,000 for fiscal year 1986 and \$1,000,000 for fiscal year 1987 of the general fund——state appropriation are provided solely for grants in aid to public and private nonprofit community health centers serving populations that lack access to affordable health care. Grants awarded under this subsection shall be used by the centers to provide primary health care services to persons who have no health care coverage. The grants shall be in addition to any federal or other funding available to the centers. No center may receive funding under this subsection if it fails or refuses to provide medically necessary care on the basis of any patient's inability to pay or lack of coverage, or if it does not contract with the department to provide care under the medical assistance program. Grants shall not be awarded to cover periods exceeding twelve months. The department may audit the books and records of community health centers to assure compliance with the purposes of this subsection. In awarding grants, the secretary shall attempt to provide an equitable distribution of funds based on need throughout the state, including rural areas.

~~((3))~~ (4) \$43,000 for fiscal year 1986 and \$43,000 for fiscal year 1987 of the general fund——state appropriation are provided solely to implement the provisions of chapter 187, Laws of 1984, regarding standards for organic chemicals in drinking water.

~~((4))~~ (5) \$34,000 for fiscal year 1986 and \$34,000 for fiscal year 1987 of the general fund——state appropriation are provided solely to implement the provisions of chapter 156, Laws of 1984, regarding compiling of information on sentinel birth defects.

~~((5))~~ (6) \$90,000 for fiscal year 1986 and \$90,000 for fiscal year 1987 of the general fund——local appropriation are provided solely for monitoring and implementation of health and sanitation standards for agricultural labor camps under chapter 248-63 WAC, as adopted by the state board of health in 1984. In health jurisdictions where there is no agreement with the local health officer for local enforcement of the standards, the department shall enforce the standards and charge fees under RCW 43.20A-.670 in amounts sufficient to cover its enforcement costs.

~~((6))~~ (7) \$260,000 for fiscal year 1986 and \$276,000 for fiscal year 1987 of the general fund——state appropriation are provided solely for

contracts on a competitive selection basis to public and private nonprofit nationally recognized academic or research organizations engaged in cancer research or in research concerning the effects of smoking on the cardiovascular and respiratory systems.

~~((7))~~ (8) \$593,000 for fiscal year 1986 and \$554,000 for fiscal year 1987 of the general fund—local appropriation is provided solely for radiation control activities, including those required under Engrossed Substitute Senate Bill No. 3799 and Engrossed Second Substitute House Bill No. 3.

(9) \$2,800,000 of the general fund—federal appropriation is provided solely to continue prenatal care services for low-income pregnant women who do not qualify for full coverage under the medical assistance program. The department shall pay for direct prenatal care, including delivery and postpartum medical services, and including the services of licensed nurse midwives where appropriate, as defined by the department, at rates not exceeding those paid under the medical assistance program and only to the extent of available funds. The department may also provide educational services to low-income women regarding the importance of early prenatal care through the development or acquisition of pamphlets or video tapes to be distributed through county health departments, schools, and other appropriate social and health services agencies and organizations. Not later than January 1, 1987, the department shall submit a report to the social and health services and ways and means committees of the senate and house of representatives on the prenatal program. The report shall include definitions of eligibility, numbers of persons served, an estimate of the number of persons potentially eligible for program services and, if the department has requested funding to continue the program in the 1987-89 biennium, a proposal for legislation establishing the program in statute.

(10) \$600,000 of the general fund—federal appropriation is provided solely for increased vaccine costs.

(11) \$1,000,000 from the general fund—state appropriation is provided solely for adult dental services that are not mandated by Title XIX of the federal social security act. The department shall contract for these services with public and private nonprofit community health centers serving populations that lack access to affordable dental health care. The department shall impose such limitations as may be necessary to provide services throughout fiscal year 1987.

*Sec. 207 was partially vetoed, see message at end of chapter.

Sec. 208. Section 213, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

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

FY 1986

FY 1987

General Fund Appropriation—		
State	\$ 31,922,000	((31,049,000))
		<u>31,029,000</u>
General Fund Appropriation—		
Federal	\$ 19,555,000	19,477,000
General Fund—Institutional Im-		
pact Account Appropriation ...	\$ 37,000	37,000
Total Appropriation	\$((102,077,000))	
		<u>102,057,000</u>

The appropriations in this section are subject to the following conditions and limitations: The department of social and health services shall transfer from its various programs up to \$1,600,000 from the general fund—state appropriations from the operating programs to the administration and support services program for travel, goods and services, and equipment for the biennium ending June 30, 1987, and revise initial allotments accordingly.

*Sec. 209. Section 214, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

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

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ ((61,840,000))	((62,614,000))
	<u>61,870,000</u>	<u>62,734,000</u>
General Fund Appropriation—		
Federal	\$ ((72,747,000))	((72,979,000))
	<u>72,777,000</u>	<u>73,099,000</u>
General Fund Appropriation—		
Local	\$ 366,000	366,000
Total Appropriation	\$((270,912,000))	
		<u>271,212,000</u>

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

(1) Department staff shall assist general assistance clients in establishing eligibility for social security and/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.

(2) The department shall provide a comprehensive report to the legislature no later than January 15, 1987, on all child day care programs currently being provided, including but not limited to programs related to seasonal and regular employment, child welfare or protection, training, and education. To

the extent possible, the report shall provide historical and projected data by program on the number of families and children served, client characteristics, expenditures, eligibility criteria, payment or income disregard levels, and program policy. In addition, the report shall identify programs or services mandated or prioritized by federal or state statutes or rules and identify variations in administrative processes or eligibility determination among programs. The department shall also study and report on the cost effectiveness of current child care programs for employed parents and parents in training. The study shall measure the effectiveness of these programs in reducing or avoiding public assistance costs on both a short- and long-term basis. The report shall include an analysis of existing programs and recommendations regarding continuing, revising, or discontinuing any existing programs.

(3) \$300,000, of which \$150,000 is from the general fund—state appropriation, is provided solely to implement the employment partnership program created in Engrossed Second Substitute House Bill No. 1505. If Engrossed Second Substitute House Bill No. 1505 is not enacted by July 1, 1986, the amounts provided by this subsection shall revert.

*Sec. 209 was partially vetoed, see message at end of chapter.

Sec. 210. Section 215, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—REVENUE COLLECTIONS PROGRAM

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	7,815,000	8,043,000
General Fund Appropriation—		
Federal \$	15,556,000	((16,093,000))
		<u>16,693,000</u>
<u>General Fund Appropriation—</u>		
Local \$		200,000
Total Appropriation	\$((47,507,000))	
	<u>48,307,000</u>	

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

(1) \$1,195,000 for fiscal year 1986, of which \$359,000 is from the general fund—state appropriation, and \$1,597,000 for fiscal year 1987, of which \$478,000 is from the general fund—state appropriation, are provided solely to implement the order of the King county superior court in Carter v. Simpson, cause number 82-5-50039-0. If this order is reversed on appeal, the unexpended balance of the amounts provided in this subsection shall revert.

(2) In serving custodial parents not on public assistance who apply for support enforcement services, the department shall, to the maximum extent

permitted by federal and state law, give priority to cases in which the custodial parent is at risk of becoming eligible for aid to families with dependent children.

(3) The department shall study and make recommendations to the legislature regarding a comprehensive and equitable plan for determining financial responsibility of clients and relatives of clients who receive department-provided or department-funded services. A committee shall be established to oversee the study, to be composed of representatives of the department, the affected population, the public, and other branches of government, including both caucuses of both houses of the legislature. The secretary of social and health services, or the secretary's designee, shall serve as chairperson of the committee. The study shall consider the legal, ethical, financial, managerial, and pragmatic consequences of the imposition of financial responsibility on utilizers of services provided or funded by the department. The study specifically shall address, but is not limited to:

(a) The level of financial responsibility assessed under existing statutes and policy for utilization of various department services by clients and their responsible relatives;

(b) The effect of financial responsibility on discouraging the utilization of necessary services provided by the department; and

(c) An equitable method of assessing the amount of financial responsibility.

The study findings shall be submitted to the appropriate committees of the house of representatives and the senate no later than November 1, 1986, along with any recommendations for legislative action.

*Sec. 211. Section 217, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	((6,383,000))	((6,146,000))
	<u>6,442,000</u>	<u>9,478,000</u>
General Fund Appropriation—		
Federal \$	((70,233,000))	70,406 000
	<u>68,233,000</u>	
General Fund—Building Code		
Council Account Appropria-		
tion \$	84,000	120,000
<u>Public Works Assistance Account</u>		
<u>Appropriation \$</u>	<u>204,000</u>	<u>303,000</u>
Total Appropriation	<u>\$((153,372,000))</u>	
	<u>155,270,000</u>	

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

(1) \$975,000 for fiscal year 1986 and \$975,000 for fiscal year 1987 of the general fund—state appropriation shall be used solely for grants in aid to public or private nonprofit organizations operating shelters for homeless persons. Grants awarded under this subsection shall be used to provide temporary emergency shelter, including either direct shelter services or vouchers to pay for low-cost commercial accommodations, to persons and families who are without housing and lack funds to purchase lodging. Grantee organizations shall give priority in the use of grant funds to shelter for families and children. Grants shall be in addition to any federal or other funding available to grantee organizations, and shall be awarded in amounts not exceeding the amount of local government and private funds that an organization receives in the grant year. Grants shall not be awarded to cover periods exceeding twelve months. The department may audit the books and records of grantee organizations to assure compliance with the purposes of this subsection. In awarding grants, the director shall attempt to provide an equitable distribution of funds based on need throughout the state, including rural areas.

(2) \$475,000 for fiscal year 1986 and \$475,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for grants in aid to public or private nonprofit organizations operating food banks which distribute food without charge to persons unable to purchase enough food for their subsistence, and to public or private nonprofit organizations operating food distribution systems that furnish donated or purchased food to food banks. Grants awarded under this subsection shall be in addition to any federal or other funding available to grantee organizations, and shall be awarded in amounts not exceeding the amount of local government and private funds that an organization receives in the grant year. Sixty percent of the funds under this subsection shall be provided to food banks and forty percent to food distribution organizations. Grants shall not be awarded to cover periods exceeding twelve months. The department may audit the books and records of grantee organizations to assure compliance with the purposes of this subsection. In awarding grants, the director shall attempt to provide an equitable distribution of funds based on need throughout the state, including rural areas.

(3) \$50,000 for fiscal year 1986 and \$50,000 for fiscal year 1987 of the general fund—state appropriation is provided solely for administration of grants in aid to emergency shelter and food programs under subsections (1) and (2) of this section.

(4) If Second Substitute House Bill No. 738 is not enacted by July 1, 1985, \$250,000 in fiscal year 1986 and \$250,000 in fiscal year 1987 of the general fund—state appropriation shall revert.

(5) \$120,000, of which \$96,000 is from the general fund—state appropriation for fiscal year 1986 and \$24,000 is from the general fund—building code council account appropriation for fiscal year 1986, and \$120,000 from the general fund—building code council account appropriation for fiscal year 1987 is provided solely to implement Engrossed Substitute Senate Bill No. 3261. The general fund—state appropriation shall be paid back to the state general fund from the building code council account by June 30, 1989.

(6) \$60,000 of the general fund—building code council account appropriation for fiscal year 1986 is provided solely to implement Substitute House Bill No. 1114. The funds generated from the surcharge on building permits established by SHB 1114 shall be deposited in the general fund—building code council account. If federal funds are available for the purposes of SHB 1114, a portion of the amount provided in this subsection equal to the amount of available federal funds shall revert.

(7) A maximum of \$100,000 for fiscal year 1986 and \$100,000 for fiscal year 1987 of the general fund—state appropriation may be spent in a study of mitigating the impact of the proposed Navy home port at Everett, Washington.

(8) \$2,970,000 of the general fund—state appropriation for fiscal year 1987 is provided solely to initiate preschool state education and assistance programs at the local level in accordance with chapter 418 (E2SHB 1078), Laws of 1985 (early childhood assistance act).

(9) \$46,000 of the general fund—state appropriation for fiscal year 1986 is provided solely for the reimbursement of government and nonprofit entities for costs incurred in controlling fires on the L.T. Murray Range.

(10) \$200,000 for fiscal year 1986 and \$550,000 for fiscal year 1987 of the general fund—state appropriation are provided solely for the state matching funds for the federal emergency management agency grant for damages caused by heavy rains, flooding, mud slides, and wind which occurred on January 16–25, 1986.

*Sec. 211 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 212. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

General Fund Appropriation—State	\$	108,000
General Fund Appropriation—Federal	\$	1,212,000
Total Appropriation	\$	1,320,000

The appropriations in this section are provided solely for the operation and support of the developmental disabilities planning council. However, moneys expended under this section shall not exceed amounts remaining unexpended from the moneys appropriated by section 206(4), chapter 6, Laws of 1985 ex. sess.

Sec. 213. Section 221, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS		
	FY 1986	FY 1987
General Fund—Public Safety and Education Account Appropriation \$	((67,000))	((67,000))
	<u>65,000</u>	<u>58,000</u>
Accident Fund Appropriation \$	1,893,000	1,848,000
Medical Aid Fund Appropriation . . . \$	1,893,000	1,848,000
Total Appropriation \$	((7,616,000))	7,605,000

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

(1) \$153,000 for fiscal year 1986 and \$153,000 for fiscal year 1987 of the accident fund appropriation, and \$153,000 for fiscal year 1986 and \$153,000 for fiscal year 1987 of the medical aid fund appropriation, are provided solely for a mediation program and the publication and indexing of board decisions, as provided in Substitute Senate Bill No. 4190. If the bill is not enacted by July 1, 1985, the amounts provided shall revert.

(2) If House Bill No. 1869 is not enacted before April 1, 1986, \$13,000 of the public safety and education account appropriation shall revert.

Sec. 214. Section 222, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION		
	FY 1986	FY 1987
General Fund—Death Investigations Account Appropriation . . . \$	15,000	15,000
General Fund—Public Safety and Education Account Appropriation \$	((3,506,000))	((3,506,000))
	<u>3,450,000</u>	<u>3,282,000</u>
Total Appropriation \$	((7,042,000))	6,762,000

The appropriations in this section are subject to the following conditions and limitations: If House Bill No. 1869 is not enacted before April 1, 1986, \$351,000 of the public safety and education account appropriation shall revert.

Sec. 215. Section 223, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES		
	FY 1986	FY 1987

General Fund Appropriation	\$ 4,014,000	3,795,000
General Fund—Public Safety and Education Account Ap- propriation	\$ 3,952,000	3,954,000
Accident Fund Appropriation	\$ 35,481,000	34,916,000
Electrical License Fund Appropria- tion	\$ 3,642,000	3,651,000
Medical Aid Fund Appropriation . . .	\$ 34,530,000	33,868,000
Plumbing Certificate Fund Appropria- tion	\$ 218,000	((218,000)) <u>314,000</u>
Pressure Systems Safety Fund Ap- propriation	\$ 524,000	531,000
Worker and Community Right to Know Fund Appropriation	\$ 540,000	961,000
Farm Worker Revolving Fund Ap- propriation—Local	\$ 78,000	72,000
Total Appropriation	\$(164,945,000)) <u>165,041,000</u>	

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

(1) The department shall establish a review committee. The review committee shall monitor on a regular quarterly basis the progress reports and work plans of the agency's information systems, including the medical information and payment system (MIPS), to ensure executive-level oversight and control of the data processing and management information systems within the agency. The review committee shall include representatives of the department of labor and industries, the office of financial management, and other appropriate persons.

(2) \$160,000 of the general fund appropriation is provided solely as a loan for the worker-right-to-know program and shall be repaid to the general fund when sufficient funds are available in the worker and community right to know fund.

(3) The farm worker revolving fund appropriation is provided solely for increased activities in connection with the licensing and regulation of farm labor contractors under ~~((Substitute House Bill No. 199))~~ chapter 280, Laws of 1985. If the bill is not enacted by July 1, 1985, this appropriation shall lapse.

Sec. 216. Section 224, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE BOARD OF PRISON TERMS AND PAROLES

FY 1986

FY 1987

General Fund Appropriation	\$	((+1,458,000))	((+1,294,000))
		<u>1,506,000</u>	<u>1,342,000</u>
Total Appropriation	\$	((2,752,000))	
		<u>2,848,000</u>	

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

(1) \$77,000 for fiscal year 1986 and \$77,000 for fiscal year 1987 of the general fund—state appropriation are provided to continue the board membership at seven members through June 30, 1986, under Engrossed Substitute House Bill No. 204. If Engrossed Substitute House Bill No. 204 is not enacted by July 1, 1985, the amounts provided shall revert.

(2) \$36,000 of the general fund—state appropriation is provided solely for one-time overtime costs associated with meeting the requirements of In re Obert Myers, 105 Wn.2d 257 (February 13, 1986).

(3) \$60,000 of the general fund—state appropriation is provided solely for one-time attorney general costs associated with meeting the requirements of In re Obert Myers, 105 Wn.2d 257 (February 13, 1986).

Sec. 217. Section 226, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

		FY 1986	FY 1987
General Fund Appropriation—			
State	\$	2,526,000	((2,526,000))
			<u>2,801,000</u>
General Fund Appropriation—			
Federal	\$	75,144,000	75,144,000
General Fund Appropriation—			
Local	\$	3,866,000	3,866,000
Administrative Contingency Fund			
Appropriation—Federal	\$	3,204,000	3,204,000
Unemployment Compensation Ad-			
ministration Fund Appropria-			
tion	\$	52,696,000	52,696,000
Total Appropriation	\$	((274,872,000))	
		<u>275,147,000</u>	

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

(1) In administering the work incentive program under chapter 74.23 RCW, the department shall emphasize efforts to prepare registrants for long-term unsubsidized employment and economic independence. To the maximum extent permissible under federal law, and to the maximum extent to which exceptions to limitations on training duration may be obtained

from the federal government, the department shall permit registrants to enter or continue in training programs that are aimed at preparing them for long-term unsubsidized employment and economic independence.

(2) \$300,000 for fiscal year 1986 and \$300,000 for fiscal year 1987 from the general fund—state appropriation are provided solely for contracting with other agencies for the Washington conservation corps. None of these funds may be spent by the employment security department for administration.

(3) \$275,000 of the general fund—state appropriation for fiscal year 1987 is provided solely for contracting with community nonprofit groups for comprehensive job-generation community development projects with substantial private sector financial and planning support. None of these funds may be spent by the employment security department for administration.

Sec. 218. Section 228, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE CORRECTIONS STANDARDS BOARD

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	346,000	346,000
General Fund Appropriation—		
Federal \$	36,000	36,000
General Fund—Local Jail Improvement and Construction Account Appropriation \$	21,232,000	((11,904,000))
		<u>17,382,000</u>
Total Appropriation \$	((33,900,000))	<u>39,378,000</u>

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

(1) The corrections standards board shall not make disbursements, accruals, or encumbrances in excess of \$31,614,000 of the local jail improvement and construction account—state appropriation.

(2) A maximum of \$875,000 from moneys that are turned back to the local jail improvement and construction account from existing projects authorized by the board on or before February 7, 1986, and any unobligated interest earned shall be provided for the Kitsap county jail extension project.

PART III
NATURAL RESOURCES

Sec. 301. Section 301, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE ENERGY OFFICE

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ 818,000	((777,000))
		<u>792,000</u>
General Fund Appropriation—		
Federal	\$ 7,281,000	6,697,000
General Fund Appropriation—		
Geothermal Account/Federal ..	\$ 42,000	44,000
General Fund—Building Code		
Council Account Appropria-		
tion	\$ 375,000	375,000
Total Appropriation	\$((16,409,000))	
		<u>16,424,000</u>

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

(1) \$122,000 in each fiscal year is provided solely for the state building energy management program. The office of financial management shall revert savings in state agency budgets resulting from this program.

(2) The general fund—building code council account appropriation is provided solely for an in situ testing program by the University of Washington college of architecture and department of mechanical engineering, of annual thermal transmittance of individual construction components and conservation measures proposed for new residential construction by the Pacific northwest electric power planning and conservation council. These funds shall be inclusive of administrative costs incurred by the state energy office. The funds generated from the surcharge on building permits established in Substitute House Bill No. 1114 shall be deposited in the general fund—building code council account. This appropriation is limited to the amount of revenues in the building code council account.

(3) \$15,000 of the fiscal year 1987 general fund—state appropriation is provided solely for membership assessments in the western interstate energy board.

Sec. 302. Section 303, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ ((21,258,000))	((21,143,000))
	<u>20,873,000</u>	<u>22,136,000</u>
General Fund Appropriation—		
Federal	\$ 10,122,000	10,128,000

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General Fund Appropriation—		
Private/Local	\$ 64,000	((64,000)) <u>460,000</u>
General Fund—Hazardous Waste Control and Elimina- tion Account Appropriation . . .	\$ 1,154,000	1,158,000
General Fund—Flood Control Account Appropriation	\$ 2,000,000	2,000,000
General Fund—Special Grass Seed Burning Account Approp- riation	\$ 35,000	35,000
General Fund—Reclamation Revolving Account Appropria- tion	\$ 561,000	562,000
General Fund—Emergency Wa- ter Project Revolving Account Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess.	\$ 311,000	335,000
General Fund—Emergency Wa- ter Project Revolving Account Appropriation: Appropriated pursuant to chapter 1, Laws of 1977 ex. sess.: Reappropria- tion	\$ 3,000,000	3,570,000
Water Project Revolving Account Subtotal	\$ 3,311,000	3,905,000
General Fund—Litter Control Account Appropriation	\$ 2,356,000	((2,394,000)) <u>2,929,000</u>
((General Fund—Water Quality Account Appropriation	\$ 10,000,000	90,000,000))
General Fund—State and Local Improvements Revolving Ac- count—Waste Disposal Fa- cilities: Appropriated pursuant to chapter 127, Laws of 1972 ex. sess. (Referendum 26)	\$ 363,000	373,000
General Fund—State and Local Improvements Revolving Ac- count—Waste Disposal Fa- cilities: Appropriated pursuant to chapter 127, Laws of 1972		

ex. sess. (Referendum 26):		
Reappropriation	\$ 20,000,000	26,278,000
Referendum 26 Subtotal . . .	\$ 20,363,000	26,651,000
General Fund—State and Local Improvements Revolving Ac- count—Waste Disposal Fa- cilities 1980: Appropriated pursuant to chapter 159, Laws of 1980 (Referendum 39)		
	\$ 39,346,000	39,441,000
General Fund—State and Local Improvements Revolving Ac- count—Waste Disposal Fa- cilities 1980: Appropriated pursuant to chapter 159, Laws of 1980 (Referendum 39): Re- appropriation		
	\$ 130,000,000	127,400,000
Referendum 39 Subtotal . . .	\$ 169,346,000	166,841,000
General Fund—State and Local Improvements Revolving Ac- count—Water Supply Fa- cilities		
	\$ 3,354,000	3,412,000
General Fund—State and Local Improvements Revolving Ac- count—Water Supply Fa- cilities: Reappropriation		
	\$ 18,000,000	18,043,000
Water Supply Subtotal . . .	\$ 21,354,000	21,455,000
Stream Gaging Basic Data Fund		
Appropriation	\$ 100,000	100,000
Total Appropriation	\$((608,460,000))	
	<u>509,999,000</u>	

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

(1) On or before October 1, 1985, the department of ecology shall file with the committees on ways and means of the senate and house of representatives and the office of financial management a master compilation by project type of those projects proposed for funding during the 1985-87 biennium from the appropriations for waste disposal facilities and water supply facilities. A separate compilation shall be supplied for each bond proceed account. The department shall submit updates for the master compilation to the committees on ways and means and the office of financial management at six-month intervals during the 1985-87 biennium. The updates shall reflect project completions, deletions, substitutions, or additions

made during the course of administering the projects. If the department proposes to change or modify any project list on the master compilation, it shall give the committees on ways and means and the office of financial management thirty days' written notice of the change or modification prior to the expenditure or obligation of any funds appropriated by this section. The department shall immediately inform the committees and the office of financial management of significant changes from historic federal funding levels for waste disposal facilities and water supply facilities. If the department does not comply fully and in a timely manner with the several compilations, updates, and modification reports required by this subsection, the director of financial management is authorized to place in reserve the second year funds allotted to the department until such time as the documents are produced and distributed as directed by this subsection.

(2) The appropriation from the state and local improvements revolving account—water supply facilities (Referendum 27) may be expended to pay up to 50% of the eligible cost of any project as a grant or loan or combination thereof. Also, the department may lend up to 100% of the eligible costs of preconstruction activities and the department may provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(3) The appropriation from the state and local improvements revolving account—waste disposal facilities (Referendum 26) may be expended by the department to pay for up to 50% of the eligible cost of any project as a grant or up to 100% as a loan or combination thereof, for waste water treatment or disposal, agricultural pollution, lake rehabilitation, or solid waste management facilities. The department is authorized to provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(4) The appropriation from the state and local improvements revolving account—waste disposal facilities 1980 (Referendum 39) may be expended by the department to pay up to 75% of the eligible cost of any project as a grant or up to 100% as a loan, or combination thereof, for waste water treatment or disposal, agricultural pollution, lake rehabilitation, or solid waste management facilities. The department is authorized to provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

(5) ~~((Contingent on the enactment of House Bill No. 811, House Bill No. 1081, Substitute Senate Bill No. 3703, or Engrossed Second Substitute Senate Bill No. 3827, the appropriation from the water quality account may be expended by the department to pay up to 50% of the eligible cost of any project as a grant or up to 100% as a loan, or combination thereof, for waste water treatment or disposal, agricultural pollution or water storage facilities which enhance water quality. The department is authorized to~~

provide up to 100% of the costs necessary to meet the conditions required to receive federal funds.

~~(6)~~ In order to monitor the expenditure of Referendum 38 funds that are to be expended prior to the use of funds provided by Second Substitute Senate Bill No. 4136, the department of ecology shall provide an annual report to the legislature of the funds remaining from Referendum 38 and the projects that are in work and awaiting approval. If SSB 4136 is not enacted by July 1, 1985, the annual reports shall not be required:

~~(7))~~ The department may operate, and seek and accept grants or gifts for the purpose of operating and maintaining, the Padilla Bay estuarine sanctuary and interpretive center.

~~((8))~~ (6) Not more than \$10,545,000 of the general fund—state appropriation for fiscal year 1986 and ~~\$(10,473,000))~~ 11,302,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the hazardous waste and air quality program. ~~((This includes funds necessary to implement Engrossed Substitute House Bill No. 975:~~

~~(9))~~ (7) Not more than ~~\$(4,304,000))~~ 3,919,000 of the general fund—state appropriation for fiscal year 1986 and ~~\$(4,301,000))~~ 4,361,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the water and land resources program including but not limited to:

- (a) Public water supply reservation;
- (b) Well drilling enforcement;
- (c) Ground/surface water data collection;
- (d) State-wide groundwater planning;
- (e) Increased shoreline management grants to local governments; and
- (f) Shoreline management support.

~~((10))~~ (8) Not more than \$2,155,000 of the general fund—state appropriation for fiscal year 1986 and ~~\$(2,133,000))~~ 2,178,000 of the general fund—state appropriation for fiscal year 1987 shall be expended in the water quality program including but not limited to:

- (a) Groundwater management and investigation;
- (b) Groundwater technical assistance; and
- (c) Municipal water management.

~~((11))~~ (9) \$985,000 of the general fund—state appropriation is provided for grants to activated air pollution control authorities.

~~((12))~~ (10) \$200,000 of the general fund—state appropriation is provided solely as a loan for the hazardous substances information and education program. At the close of the 1985-87 biennium, the state treasurer shall transfer \$200,000 from the worker and community right to know fund to the general fund. If House Bill No. 865 is not enacted before July 1, 1985, the general fund amount provided in this subsection shall revert and the transfer from the worker and community right to know fund shall not occur.

~~((13))~~ (11) \$354,000 of the general fund—state appropriation is provided solely for the department to develop a state hazardous waste management plan, including criteria for the siting of hazardous waste management facilities.

~~((14))~~ (12) For the purpose of implementing the requirements of a shellfish protection program, including a pilot program for the prevention of nonpoint source pollution of important shellfish resource areas, the department of ecology shall expend up to a maximum of \$300,000 for:

(a) The development of regulations designating priority shellfish protection resource areas;

(b) Contracts with local governments and conservation districts to develop plans, educational programs, and other activities to clean up and protect shellfish resource areas; and

(c) Washington conservation corps activities and other programs to assist land owners in eliminating animal waste related pollution.

~~((15))~~ (13) The office of financial management is authorized to allow the department to deviate from the annual allocation of moneys provided in this section. This authorization pertains only to moneys appropriated and reappropriated for construction grants and hazardous waste remedial action construction contracts.

(14) \$470,000 of the general fund—state appropriation and \$396,000 of the general fund—local appropriation are provided solely to implement either Senate Bill No. 4876 or House Bill No. 1655 on low-level radioactive waste. If neither Senate Bill No. 4876 nor House Bill No. 1655 is enacted by July 1, 1986, the amounts provided by this subsection shall lapse.

(15) \$57,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 69 (chapter 426, Laws of 1985), dealing with the development of guidelines and standards for the establishment of solid waste trust funds.

(16) \$52,000 of the general fund—state appropriation is provided solely to implement House Bill No. 974 (chapter 456, Laws of 1985), dealing with acid rain assessment.

(17) \$45,000 of the general fund—state appropriation is provided solely for water quality laboratory analysis.

(18) \$59,000 of the general fund—state appropriation is provided solely for the conduct of civil and criminal investigations of violations of environmental statutes.

(19) Not more than \$15,000 from the general fund—reclamation revolving account appropriation shall be paid to Cowlitz county as reimbursement for prior contributions of the flood control district to the account.

(20) Not more than \$150,000 from the general fund—private/local appropriation may be expended by the department to perform studies, by

contract or otherwise, to define site closure and perpetual care and maintenance requirements for the Hanford low-level radioactive waste disposal facility and to assess the adequacy of insurance coverage for general liability, radiological liability, and transportation liability for the facility. The department shall complete the studies and report its findings to the legislature by December 31, 1987. The department shall make a preliminary progress report to the legislature by December 31, 1986.

Sec. 303. Section 310, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

	FY 1986	FY 1987
General Fund Appropriation \$	10,265,000	10,016,000
Motor Vehicle Fund Appropriation \$	((258,000))	((261,000))
	<u>281,000</u>	<u>298,000</u>
Total Appropriation \$	((20,800,000))	<u>20,860,000</u>

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

(1) \$1,951,000 of the general fund—state appropriation shall be expended in each fiscal year solely for the University of Washington for the continuation of the Washington high technology center and the center for international trade in forest products as matching funds to private-sector, federal, and in-kind contributions, on the basis of the following percentages:

- (a) Washington high technology center, 50 percent; and nonstate contributions, 50 percent; and
- (b) Center for international trade in forest products, 50 percent; and nonstate contributions, 50 percent.

(2) The motor vehicle fund appropriation shall be used in conformance with constitutional limitations.

(3) \$175,000 of the general fund appropriation is provided solely for the Washington state economic development board. If House Bill No. 627 is not enacted before July 1, 1985, the amount provided in this subsection shall revert.

(4) Not more than \$251,000 of the general fund—state appropriation shall be expended in fiscal year 1986 for the high-technology coordinating board. A plan shall be submitted to the legislature not later than December 20, 1985, detailing the future activities, structure, and costs of the board.

(5) Funds provided for county economic development councils shall be matched at fifty percent, except that no funds contained in this appropriation nor in-kind contributions shall be used for such matching funds.

(6) The department may contract with the small business development center at Washington State University for services to assist the promotion and expansion of small businesses in the state.

(7) The department is authorized to transfer from the surplus of the state trade fair fund not more than \$150,000 to the centennial commission.

(8) \$23,000 for fiscal year 1986 and \$37,000 for fiscal year 1987 from the motor vehicle fund appropriation are provided solely to implement a computer-assisted tourist information network at selected visitor information centers and state highway rest areas. The department shall coordinate with the state department of transportation in establishing the system. All revenue derived from a vendor or vendors associated with the system shall be deposited by the department in the motor vehicle fund.

Sec. 304. Section 312, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GAME

	FY 1986	FY 1987
General Fund—ORV (Off-Road Vehicle) Account Appropriation \$	123,000	124,000
General Fund—Aquatic Lands Enhancement Account Appropriation \$	158,000	158,000
General Fund—Public Safety and Education Account Appropriation \$	((233,000))	((245,000))
	<u>225,000</u>	<u>214,000</u>
Game Fund Appropriation—State \$	((20,054,000))	((19,585,000))
	<u>20,116,000</u>	<u>19,917,000</u>
Game Fund Appropriation—Federal \$	5,664,000	5,803,000
Game Fund Appropriation—Private/Local \$	647,000	646,000
Game Fund—Special Wildlife Account Appropriation \$	148,000	148,000
Total Appropriation \$	((53,736,000))	((53,736,000))
	<u>54,091,000</u>	

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

(1) \$57,000 from the game fund—state appropriation is provided solely for legal fees resulting from the Chehalis river contempt hearing.

(2) Not more than \$337,000 from the game fund—state appropriation may be expended for the purposes of chapter 243, Laws of 1985.

(3) If HB 1869 is not enacted before April 1, 1986, \$48,000 of the public safety and education account appropriation shall revert.

Sec. 305. Section 314, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ ((15,799,000))	((14,992,000))
	<u>22,416,000</u>	<u>14,923,000</u>
General Fund Appropriation—		
Federal	\$ 129,000	129,000
General Fund—ORV (Off-Road Vehicle) Account Appropriation	\$ 1,508,000	1,488,000
General Fund—Geothermal Account Appropriation—Federal	\$ 8,000	8,000
General Fund—Forest Development Account Appropriation ..	\$ ((6,606,000))	((6,481,000))
	<u>7,496,000</u>	<u>7,945,000</u>
General Fund—Survey and Maps Account Appropriation ..	\$ 362,000	369,000
General Fund—Landowner Contingency Forest Fire Suppression Account Appropriation ...	\$ 708,000	724,000
General Fund—Resource Management Cost Account Appropriation	\$ ((24,595,000))	((24,655,000))
	<u>26,361,000</u>	<u>27,419,000</u>
Total Appropriation	\$((98,561,000))	
	<u>111,993,000</u>	

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

(1) ~~\$(601,000))~~ 346,000 of the general fund—state appropriation is provided solely for litigation costs in fiscal year 1986, and ~~\$(581,000))~~ 245,000 of the general fund—state appropriation is provided solely for litigation costs in fiscal year 1987, associated with court actions brought by the state against timber companies that have defaulted on timber sales contracts. ~~((Ten percent of all funds recovered by the state in these court actions shall be deposited in the general fund until the total deposited in the general fund equals \$1,182,000.))~~

(2) \$310,000 of the general fund—state appropriation in each fiscal year is provided solely for costs associated with flood damage litigation in Skagit and Whatcom counties.

(3) \$482,000 of the general fund—state appropriation for fiscal year 1986 shall be used solely for the department of natural resources to move from the public lands building and vacate the house office building.

Sec. 306. Section 315, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	7,482,000	((7,352,000))
		<u>7,409,000</u>
General Fund Appropriation—		
Federal \$	387,000	354,000
General Fund—Feed and Fertilizer Account Appropriation . . . \$	10,000	7,000
Fertilizer, Agricultural, Mineral and Lime Fund Appropriation \$	214,000	220,000
Commercial Feed Fund Appropriation \$	246,000	236,000
Seed Fund Appropriation \$	486,000	498,000
Nursery Inspection Fund Appropriation \$	315,000	316,000
<u>Livestock Security Interest Fund</u>		
<u>Appropriation \$</u>	<u>21,000</u>	<u>17,000</u>
Total Appropriation \$	\$((18,123,000))	<u>18,218,000</u>

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

(1) Not more than \$851,000 of the general fund—state appropriation shall be expended in each fiscal year for enhanced export and domestic marketing in the agricultural development program.

(2) Not more than \$549,000 of the general fund—state appropriation in each fiscal year shall be expended for the continuation of the IM-PACT center at Washington State University.

(3) \$125,000 for fiscal year 1986 and \$125,000 for fiscal year 1987 from the general fund—state appropriation are provided solely for the purchase of materials or biological control agents for controlling or eradicating noxious weeds and shall be available only for distribution by the director of the department to those activated county noxious weed control boards and active weed districts that employ administrative personnel to

supervise a weed control program and that have a budget from other than state sources of at least twenty-five thousand dollars annually. The moneys provided under this paragraph shall be allocated to such boards and districts based on the severity of the noxious weed control problems.

(4) \$57,000 of the general fund—state appropriation is provided for the purchase of vaccine for the prevention of brucellosis and for the cost of distributing brucellosis vaccine to veterinarians practicing in the state of Washington, in a manner to be established by the office of state veterinarian.

PART IV
TRANSPORTATION

Sec. 401. Section 401, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE PATROL

	FY 1986	FY 1987
General Fund Appropriation—		
State \$	((6,684,000))	((6,611,000))
	<u>6,881,000</u>	<u>6,778,000</u>
General Fund Appropriation—		
Federal \$	70,000	70,000
General Fund Appropriation—		
Private/Local \$	718,000	539,000
General Fund—Death Investiga-		
tions Account Appropriation . . . \$	12,000	12,000
Total Appropriation \$	((14,716,000))	
	<u>15,080,000</u>	

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

(1) \$95,000 for fiscal year 1986 and \$63,000 for fiscal year 1987 of the general fund—state appropriation are provided solely to operate a missing children clearinghouse under Substitute House Bill No. 242. ((If the bill is not enacted before July 1, 1985, the amounts provided shall revert.))

(2) \$197,000 for fiscal year 1986 and \$167,000 for fiscal year 1987 from the general fund—state appropriation are provided to eliminate backlogs and provide mandated services for the state patrol identification and criminal history section.

Sec. 402. Section 402, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

	FY 1986	FY 1987
General Fund Appropriation \$	6,342,000	((5,697,000))
		<u>6,924,000</u>

General Fund—Architects' License Account Appropriation . . . \$	234,000	234,000
General Fund—Medical Disciplinary Account Appropriation \$	440,000	440,000
General Fund—Health Professions Account Appropriation . . . \$	2,826,000	2,770,000
General Fund—Professional Engineers' Account Appropriation \$	405,000	400,000
General Fund—Real Estate Commission Account Appropriation \$	2,834,000	2,434,000
Total Appropriation \$	\$(25,056,000)	26,283,000

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

(1) \$900,000 of the fiscal year 1987 general fund—state appropriation is provided solely for redevelopment and expansion of the master license system. This funding is contingent on interagency transfers of \$200,000 from the department of labor and industries and \$200,000 from the department of employment security, and contingent on services in kind worth \$200,000 from the department of revenue. The department shall begin development and pilot testing of common business identification numbers.

(2) \$44,000 of the fiscal year 1987 general fund—state appropriation is provided solely for regulation of commodity-related activities under Senate Bill No. 4527 or Substitute House Bill No. 1012. If neither Substitute House Bill No. 1012 nor Senate Bill No. 4527 is enacted by July 1, 1986, the amount provided by this subsection shall lapse.

(3) \$151,000 of the fiscal year 1987 general fund—state appropriation is provided solely to establish a small business capital formation program under Substitute House Bill No. 205. If Substitute House Bill No. 205 is not enacted by July 1, 1986, the amount provided by this subsection shall lapse.

(4) \$132,000 of the fiscal year 1987 general fund—state appropriation is provided solely for registration and regulation of vessel dealers under House Bill No. 1613. If House Bill No. 1613 is not enacted by July 1, 1986, the amount provided by this subsection shall lapse.

Sec. 403. Section 10, chapter 460, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES

General Fund—Public Safety and Education

Account Appropriation	\$	((2,056,000))
		<u>1,892,000</u>
Highway Safety Fund Appropriation	\$	30,005,000
Highway Safety Fund—Motorcycle Safety		
Education Account Appropriation.....	\$	193,000
Total Appropriation	\$	((32,254,000))
		<u>32,090,000</u>

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

(1) The appropriations in this section provide no moneys for the administrative suspension of drivers' licenses pursuant to chapter 165, Laws of 1983 (SHB 289).

(2) The appropriations in this section provide no moneys for the "predriver education program" operated by the department and no funds may be expended by the department for this purpose.

(3) If House Bill No. 1869 is not enacted before April 1, 1986, \$206,000 of the public safety and education account appropriation shall revert.

PART V EDUCATION

Sec. 501. Section 501, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION

General Fund Appropriation—State	\$	((19,173,000))
		<u>19,448,000</u>
General Fund Appropriation—Federal	\$	7,412,000
General Fund—Public Safety		
and Education Account Appropriation	\$	464,000
Total Appropriation	\$	((27,049,000))
		<u>27,324,000</u>

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

(1) The general fund—public safety and education account appropriation may be expended 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) \$66,000 of the general fund—state appropriation is provided for compensation of members of the state board of education pursuant to RCW 43.03.240.

(3) The superintendent of public instruction is directed to establish an environmental education task force of natural resource agency representatives, educators, legislators, and concerned citizens to:

(a) Establish a definition of environmental literacy;

(b) Identify existing environmental and conservation education resources in the public and private sectors; and

(c) Conduct a needs assessment to determine how to maximize use of existing environmental education resources and to provide for future needs.

\$5,000 of the general fund—state appropriation is provided solely to establish the environmental education task force. The task force shall report its findings to the committees on education and parks and ecology of the senate and the committees on education and environmental affairs of the house of representatives during the 1986 regular legislative session.

(4) \$58,000 of the general fund—state appropriation is provided solely for teacher exchange activities between the province of Sichuan, China, and the state of Washington. Such funds may be used to offset living expenses and travel costs for not more than three Chinese and three American exchange teachers per year.

(5) A maximum of \$350,000 of the general fund—state appropriation may be expended for the implementation of Second Substitute House Bill No. 141, achievement test/10th grade.

(6) ~~\$(1,550,000)~~ 1,625,000 of the general fund—state appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 174, teacher's assistance program.

(7) \$512,000 of the general fund—state appropriation is provided solely for implementation of House Bill No. 849, teacher evaluation.

(8) \$500,000 of the general fund—state appropriation is provided solely for implementation of Second Substitute House Bill No. 1056, school based management.

(9) \$1,000,000 of the general fund—state appropriation is provided solely for implementation of Second Substitute House Bill No. 1065, school inservice program.

(10) \$10,000, or so much thereof as is necessary, of the general fund—state appropriation may be expended for implementation of section 2 of House Bill No. 999, authorizing a data base report on educational clinics.

(11) \$150,000 of the general fund—state appropriation is provided solely for the implementation of Substitute House Bill No. 1829, categorical program study. If the bill is not enacted by June 30, 1986, this amount provided by this subsection shall lapse.

(12) \$50,000 of the general fund—state appropriation is provided solely for community-based pilot projects in remedial assistance.

Sec. 502. Section 503, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT (BASIC EDUCATION)

General Fund Appropriation \$((3,465,393,000))
3,436,768,000

The appropriation in this section is subject to the following conditions and limitations:

(1) As a condition to the allocation of funds to school districts appropriated pursuant to this section, the superintendent shall require school districts to ensure that, during the respective school year, the district has complied with all rules adopted by the superintendent of public instruction to implement RCW 28A.58.095. For any violation of such rules, the superintendent shall withhold an amount equal to the level of the violation when applied to the district's respective basic education allocation, unless or until such time as the school district comes into compliance with the rules.

(2) \$((317,285,000)) 314,650,000 is provided solely for the remaining months of the 1984-85 school year.

(3) Allocations for certificated salaries for the 1985-86 and 1986-87 school years shall be calculated by multiplying each district's average basic education certificated salary allocation defined in section 504 of this act by the district's formula-generated certificated staff units determined as follows:

(a) One certificated staff unit for each twenty average annual full time equivalent kindergarten, elementary, and secondary students, excluding handicapped full time equivalent enrollment as calculated according to the procedures in the allocation model established in section 506 of this act and excluding full time equivalent enrollment otherwise recognized for certificated staff unit allocations in subsection (3) (b) through ~~((d))~~ (c) of this section: PROVIDED, That those school districts with a minimum enrollment of 250 full time equivalent students and whose full time equivalent student enrollment count in a given enrollment month exceeds the first of the month full time equivalent enrollment count by 5% shall be entitled to an additional state allocation of 110% of the pro rata share that such enrollment would have generated had such additional full time equivalent students been included in the normal enrollment count for that particular month.

(b) During the 1985-86 school year, one certificated staff unit for each average annual eighteen and three-tenths full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction, for the 1986-87 school year one certificated staff unit for each average annual seventeen and one-half full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction: PROVIDED, That in skills centers, the ratio shall be one certificated staff unit for each average annual sixteen and sixty-seven

one-hundredths full time equivalent students enrolled in an approved vocational education program.

(c) For districts enrolling not more than twenty-five average annual full time equivalent students and for small school plants within any school district, which small plants enroll not more than twenty-five average annual full time equivalent students and have been judged to be remote and necessary by the state board of education, certificated staff units shall be determined as follows:

(i) For the 1985-86 school year, for those enrolling no students in grades seven or eight, three certificated staff units;

(ii) For the 1985-86 school year, for those enrolling students in either grades seven or eight, four certificated staff units;

(iii) For the 1986-87 school year, for those enrolling no students in grades seven or eight, two certificated staff units for enrollment of not more than five students, plus one-twentieth of a certificated staff unit for each additional student enrolled; and

(iv) For the 1986-87 school year, for those enrolling students in either grades seven or eight, two certificated staff units for enrollment of not more than five students, plus one-tenth of a certificated staff unit for each additional student enrolled.

(d) For districts enrolling more than twenty-five but not more than one hundred average annual full time equivalent students (except as otherwise specified) and for small school plants within any school district, which small plants enroll more than twenty-five average annual full time equivalent students and have been judged to be remote and necessary by the state board of education, certificated staff units shall be determined as follows:

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

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

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

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

(v) 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 staff unit;

(vi) 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 unit.

~~((d))~~ (c) A district that operates no more than two high schools with enrollments of not more than three hundred average annual full time equivalent students shall be allocated certificated staff units for enrollment in each such high school as follows:

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

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

~~((e))~~ (f) In addition to those staffing ratios specified by RCW 28A-41.140, school districts with an enrollment of at least 100 annual average full time equivalent students in grades kindergarten through third grade shall receive during the 1986-87 school year a certificated unit allocation in addition to that provided in subsection (3)(a) of this section, at a rate of one certificated staff unit per 1,000 annual average full time equivalent students enrolled in grades kindergarten through third grade: PROVIDED, That school districts shall use the additional certificated unit allocation to provide during the 1986-87 school year additional personnel whose primary duty is the daily classroom educational instruction of students.

(4) Allocations for classified salaries for the 1985-86 and 1986-87 school years shall be calculated by multiplying each district's average basic education classified salary allocation as defined in section 504 of this act by the district's formula-generated classified staff units determined as follows:

(a) One classified staff unit per each three certificated staff units determined under subsection (3) (a), (c), ~~((and))~~ (d), and (e) of this section;

(b) One classified staff unit for each sixty full time equivalent vocational students enrolled; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(5) Fringe benefit allocations shall be calculated at a rate of 20.03 percent in the 1985-86 school year and 20.08 percent in the 1986-87 school year of certificated salary allocations provided pursuant to subsection (3) of this section, and a rate of 16.86 percent in the 1985-86 school year and 16.91 percent in the 1986-87 school year of classified salary allocations provided pursuant to subsection (4) of this section.

(6) Insurance benefit allocations for the 1985-86 and 1986-87 school years shall be calculated at a rate of \$167 per month for the number of certificated staff units determined in subsection (3) of this section and for the number of classified staff units determined in subsection (4) of this section multiplied by 1.152.

(7)(a) For nonemployee related costs with each certificated staff unit determined under subsection (3) (a), (c), ~~((and))~~ (d), and (e) of this section, there shall be provided a maximum of \$5,614 per staff unit in the 1985-86 school year and a maximum of \$5,833 per staff unit in the 1986-87 school year.

(b) For nonemployee related costs with each certificated staff unit determined under subsection (3)(b) of this section, there shall be provided a maximum of \$10,698 per staff unit in the 1985-86 school year and a maximum of \$11,115 per staff unit in the 1986-87 school year.

(8) Allocations for costs of substitutes for classroom teachers shall be provided at a rate of \$268 per full time equivalent basic education classroom teacher during the 1985-86 and 1986-87 school years.

(9) The superintendent shall distribute a maximum of \$3,010,000 outside the basic education formula during fiscal years 1986 and 1987 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 \$320,000 may be expended in fiscal year 1986 and a maximum of \$342,000 in fiscal year 1987.

(b) For summer vocational programs at skills centers, not more than ~~\$(999,000))~~ 771,000 shall be expended in fiscal year 1986 and not more than \$1,077,000 in fiscal year 1987.

(c) For school district emergencies, a maximum of \$136,000 may be expended in fiscal year 1986 and a maximum of \$136,000 may be expended in fiscal year 1987.

(10) A maximum of \$125,000 shall be distributed to enhance funding provided in subsections (3) through (9) of this section in the 1986-87 school year 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.

NEW SECTION. Sec. 503. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—RETIREMENT BENEFITS

General Fund—Revenue Accrual Account

Appropriation \$ 11,297,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The superintendent shall distribute funds appropriated in this section in proportion to the state-supported classified salary allocation to each district.

(2) Funds appropriated in this section are intended to fully fund employer contributions to the public employees' retirement system.

Sec. 504. Section 504, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—SCHOOL DISTRICT EMPLOYEE COMPENSATION

General Fund Appropriation \$ 47,733,000

(1) For the purposes of section 503 of this act and this section, the following conditions and limitations apply:

(a) "LEAP Document 7" means the computer tabulation of 1984–85 derived base salaries for basic education certified staff and 1984–85 average salaries for basic education classified staff, as developed by the legislative evaluation and accountability program committee on April 11, 1985, at 10:36 hours.

(b) "Revised LEAP Document 7" means the computer tabulation of certificated and classified derived base salaries as developed by the legislative evaluation and accountability program committee on February 27, 1986, at 9:41 hours.

(c) For the purposes of the appropriation in section 502 of this 1986 act, each district's average basic education certificated salary allocation shall be the district's certificated derived base salary shown on LEAP Document 7, multiplied by the district's prior year staff mix factor calculated using LEAP Document 1.

~~((c))~~ (d) For the purposes of the appropriation in section 502 of this 1986 act, each district's average basic education classified salary allocation for both the 1985–86 and 1986–87 school years shall be the district's classified derived base salary multiplied by the district's prior year classified increment mix factor, as specified in this section. For the 1985–86 school year, the classified derived base salary for each district shall be the average classified salary specified for each district in LEAP Document 7 divided by the 1984–85 classified increment mix factor for each district calculated according to the formula used by the superintendent of public instruction in the 1984–85 school year. By December 1, 1985, the superintendent of public instruction shall provide to the legislative evaluation and accountability program committee the appropriate data with which to modify LEAP Document 7 to reflect the classified derived base salary for use in the 1986–87 school year.

(e) "Incremental fringe benefits" means 19.44 percent for certificated staff and 15.49 percent for classified staff, which percentages shall be the fringe benefit rates applied to all salary increases provided in this section, and is for employer contributions to employee benefits and retirement benefits.

(2) For the purposes of RCW 28A.58.095 and section 503(1) of this act, the following conditions and limitations apply:

(a) Effective September 1, 1986, each school district is authorized to grant salary increases that increase the district's actual basic education certificated derived base salary to no more than the sum of: (i) The district's certificated derived base salary as shown on revised LEAP Document 7; and (ii) three percent of the state-wide average certificated derived base salary as shown on revised LEAP Document 7.

(b) Effective September 1, 1986, each school district is authorized to grant salary increases that increase the district's actual basic education classified derived base salary to no more than the sum of: (i) The district's classified derived base salary as shown on revised LEAP Document 7; and (ii) three percent of the state-wide average classified derived base salary as shown on revised LEAP Document 7.

(c) The maximum average percentage salary increase in school district programs other than the basic education program shall not exceed the percentage increase authorized pursuant to this section for the district's basic education program.

~~((b))~~ (d) Insurance benefits are limited by this act to an average monthly rate of \$167 per full time equivalent certificated employee and to an average monthly rate of \$167 per classified unit. Classified units shall be calculated on the basis of 1,440 hours of work per year, with no individual employee counted for more than one unit. In accordance with RCW 28A-.58.095, this subsection relates to insurance benefit increases granted in either the 1985-86 or 1986-87 school year which would raise the rate per full time equivalent unit to over \$167 per month.

~~((c))~~ (e) Increments granted by school districts to certificated staff shall constitute salary increase in the year in which the increments are given by a district to the extent only that the aggregate of increments granted by a district exceeds the aggregate of increments pursuant to LEAP Document 1.

~~((d))~~ (f) Seniority increments granted by a school district pursuant to the district's salary schedule for classified employees shall constitute salary increase in the year in which the increments are given to the extent only that the aggregate of the increments granted by the district exceeds the amount of the district's increments calculated using the formula adopted by the superintendent of public instruction for the classified increment mix factor.

(g) Districts may elect an alternate measure of salary compliance for classified staff by comparing base salaries of 1986-87 staff to the imputed base that was or would have been paid the same staff in the same positions during 1985-86 if the districts electing this alternative certify by board resolution that any amount in excess of state-funded salary levels in each year henceforward is solely a district obligation created through local district personnel policies and salary schedule placements, and that the effect shall

neither incur nor imply any current or future funding obligation by the state.

(3)(a) A maximum of \$650,000 of the appropriation in this section is provided to fund the conversion from LEAP Document 7 to revised LEAP Document 7, effective September 1, 1986. The superintendent of public instruction shall distribute these moneys to fund increases in salary costs and incremental fringe benefits resulting from using revised LEAP Document 7 to calculate allocations for certificated and classified staff units as in section 502 of this 1986 act.

(b) \$28,582,000 is provided, effective September 1, 1986, to increase funding for each basic education certificated staff unit allocated for the 1986-87 school year in section 502 of this 1986 act by an amount equal to the district's 1985-86 LEAP Document 1 basic education staff mix factor times three percent of the state-wide average certificated derived base salary as shown on revised LEAP Document 7, and for incremental fringe benefits.

(c) \$5,926,000 is provided, effective September 1, 1986, to increase funding for each basic education classified staff unit allocated for the 1986-87 school year in section 502 of this 1986 act by an amount equal to the district's 1985-86 basic education classified increment mix factor times three percent of the state-wide average classified derived base salary as shown on revised LEAP Document 7, and for incremental fringe benefits.

(d) A maximum of \$2,263,000 is provided for salary increases and incremental fringe benefits in the following programs, to be distributed by increasing 1986-87 school year allocation rates as specified:

(i) Transitional bilingual instruction (section 508), \$11.43 per pupil;
(ii) Remediation assistance (section 509), \$8.80 per pupil;
(iii) Education of highly capable students (section 510), \$6.77 per pupil;

(iv) Vocational-technical institutes (section 512), \$59.94 per FTE pupil;

(v) Pupil transportation (section 514), \$0.46 per weighted pupil-mile.

(e) A maximum of \$3,968,000 is provided for salary increases and incremental fringe benefits for state-supported staff unit allocations in the handicapped program (section 506), and for state-supported staff in educational service districts (section 502) and institutional education programs (section 507). The superintendent of public instruction shall distribute a three percent salary increase for these programs using the pertinent program state-wide average derived base salaries.

(f) \$6,344,000 of the appropriation in this section is provided to enhance salaries for certificated personnel in state-supported programs pursuant to this subsection. Each school district with a certificated derived base salary of less than \$16,500, as shown on revised LEAP Document 7, is

authorized to grant salary increases effective September 1, 1986, which both:

(i) Increase the actual full time equivalent salary of each certificated employee of the district to a minimum of \$16,500 for the 1986-87 school year; and

(ii) Increase the district's actual basic education certificated derived base salary, excluding the salary increase provided in subsection (2)(a) of this section, to no more than \$16,500.

For the purposes of allocating basic education funds in the 1986-87 school year, the superintendent of public instruction shall modify revised LEAP Document 7 to reflect a certificated derived base salary of \$16,500 for each district which grants the increases authorized by this subsection. The superintendent of public instruction may distribute a maximum of \$71,000 of the funds provided by this subsection to those districts whose actual cost of granting minimum increases to \$16,500 under (i) of this subsection exceeds the increase in the district's total salary allocation resulting from the modification of revised LEAP Document 7.

In addition to other increases provided by this section, each school district with a certificated derived base salary of at least \$16,500, as shown on revised LEAP Document 7, is authorized to grant such increases effective September 1, 1986, as are necessary to achieve a minimum full time equivalent salary of \$16,500 for any individual certificated employee. \$1,500,000, or so much thereof as may be necessary, shall be distributed by the superintendent of public instruction solely to increase salaries of individual certificated employees in these districts who would otherwise receive a full time equivalent salary of less than \$16,500.

(4) Increases provided by this section shall be included in the programs referenced in RCW 84.52.0531(1) for purposes of calculating the levy lid.

Sec. 505. Section 506, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR HANDICAPPED EDUCATION PROGRAMS

General Fund Appropriation—State	\$ ((355,371,000))
	<u>362,380,000</u>
General Fund Appropriation—Federal	\$ 30,153,000
Total Appropriation	\$ ((385,524,000))
	<u>392,533,000</u>

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

(1) ~~\$((32,235,000))~~ 32,120,000 of the general fund—state appropriation is provided solely for the remaining months of the 1984-85 school year.

(2) The superintendent of public instruction shall distribute state funds for the 1985-86 (~~and 1986-87~~) school year(~~s~~) in accordance with a district's actual handicapped enrollments and the allocation model established in (~~new~~) LEAP Document 8 as developed by the legislative evaluation and accountability program committee on May 28, 1985, at 14:04 hours.

(3) The superintendent of public instruction shall distribute state funds for the 1986-87 school year in accordance with a district's actual handicapped enrollments and the allocation model established in LEAP Document 8 (revised) as developed by the legislative evaluation and accountability program committee on December 10, 1985, at 9:45 hours.

(4) A maximum of \$250,840 may be expended from the general fund—state appropriation to fund three teachers and one aide at Children's Orthopedic Hospital and Medical Center. This amount is in lieu of money provided through home and hospital allocation and the handicapped program.

Sec. 506. Section 509, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR REMEDIATION ASSISTANCE

General Fund Appropriation \$ ((~~24,733,000~~))
29,580,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,644,000 is provided solely for the remaining months of the 1984-85 school year.

(2) Funding for school district remediation programs serving grades two through nine shall be distributed during the 1985-86 and 1986-87 school years at a maximum rate of \$337 per unit as calculated pursuant to this subsection. The number of units for each school district shall be the sum of: (a) The number of students enrolled in grades two through six in the district multiplied by the percentage of students taking the fourth grade basic skills test (~~in the previous year~~) who scored in the lowest quartile as compared to national norms, and then reduced to the extent that the number of students ages seven through eleven in the district who are identified as specific learning disabled and served through programs established pursuant to chapter 28A.13 RCW exceeds four percent of the district full time equivalent enrollment in grades two through six; and (b) the number of students enrolled in grades seven through nine in the district multiplied by the percentage of students taking the eighth grade basic skills test (~~in the previous year~~) who scored in the lowest quartile as compared to national norms, and then reduced to the extent that the number of students ages twelve through fourteen in the district who are identified as specific learning

disabled and served through programs established pursuant to chapter 28A-.13 RCW exceeds four percent of the district full time equivalent enrollment in grades seven through nine. For the purposes of allocating funds for the 1985-86 school year, the superintendent shall use the prior year's fourth and eighth grade basic skills test scores. For the purposes of allocating funds for the 1986-87 school year, the superintendent shall use the most recent prior five-year average scores on the fourth grade test and the most recent prior two-year average scores on the eighth grade test.

Sec. 507. Section 510, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS

General Fund Appropriation \$ ~~((4,918,000))~~
4,876,000

The appropriation in this section is subject to the following conditions and limitations:

(1) ~~\$(408,000))~~ 400,000 is provided solely for distribution to school districts for the remaining months of the 1984-85 school year.

(2) A maximum of ~~\$(2,326,000))~~ 2,308,000 may be expended by school district programs for highly capable students during the 1985-86 school year, distributed at a maximum rate of \$326 per student for up to one percent of each district's 1985-86 full time equivalent enrollment.

(3) A maximum of ~~\$(2,391,000))~~ 2,365,000 may be expended in school district programs for highly capable students in the 1986-87 school year, at a maximum rate of \$330 per student for up to one percent of each district's 1986-87 full time equivalent enrollment.

(4) A maximum of \$271,000 is provided to contract for an approved gifted program to be conducted at Fort Worden state park.

Sec. 508. Section 514, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund Appropriation \$ ~~((208,894,000))~~
204,421,000

The appropriation in this section is subject to the following conditions and limitations:

(1) A maximum of ~~\$(92,238,000))~~ 90,093,000 may be distributed for pupil transportation operating costs in the 1985-86 school year.

(2) A maximum of \$755,000 may be expended for regional transportation coordinators.

(3) A maximum of \$56,000 may be expended for bus driver training.

Sec. 509. Section 516, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRAFFIC SAFETY EDUCATION PROGRAMS

General Fund—Public Safety
and Education Account Appropriation \$ ((+5,123,000))
13,876,000

The appropriation in this section is subject to the following conditions and limitations:

(1) Not more than \$549,000 may be expended for regional traffic safety education coordinators.

(2) If House Bill No. 1869 is not enacted before April 1, 1986, \$1,559,000 of the public safety and education account appropriation shall revert.

PART VI
HIGHER EDUCATION

Sec. 601. Section 603, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

	FY 1986	FY 1987
General Fund Appropriation \$	218,702,000	((218,721,000))
		<u>218,852,000</u>
Medical Aid Fund Appropriation . . . \$	1,059,000	1,059,000
Accident Fund Appropriation \$	1,059,000	1,059,000
General Fund—Death Investigations		
Account Appropriation \$	335,000	379,000
Total Appropriation \$	((442,373,000))	
	<u>442,504,000</u>	

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

(1) \$126,790,000 from the fiscal year 1986 general fund appropriation and \$126,791,000 from the fiscal year 1987 general fund appropriation are provided solely for the instruction program. Not less than a biennial average of \$4,281 per academic year full time equivalent student shall be spent from the state general fund in the instruction program. Of the amounts provided in this subsection, at least \$1,829,000 shall be spent for enhancement of the instructional equipment budget. Of the amounts provided in this subsection, a maximum of \$40,000 may be spent on activities related to federated learning centers.

(2) A maximum of \$400,000 may be spent for costs of initiating in underserved urban areas those undergraduate programs that are intended to

become substantially self-supporting. Full time equivalent enrollments resulting from expenditures under this subsection are not subject to the conditions of subsection (1) of this section. The university shall make every effort to provide the classes authorized in this subsection on the university campus.

(3) The office of financial management shall initially allot for the following:

- (a) Equipment \$8,318,000
- (b) Plant operations and maintenance \$48,148,000

(4) The salary increases for the faculty of the University of Washington((, effective)) which take effect January 1, 1986, may be granted solely to reduce critical market disparities in teaching disciplines. For the purposes of this subsection, "faculty" means only those individuals holding faculty appointments in the instruction, research, public service, primary support, and sponsored research programs, including medical residents. The university shall report to the office of financial management its plans for granting salary increases under this section, including but not limited to data on increases to specific disciplines by professorial rank by October 30, 1985. The office of financial management shall report to the ways and means committees of the senate and house of representatives regarding the specific criteria the university will use to measure market disparities in teaching disciplines and to allocate salary increases to reduce such disparities. The report shall be made no later than December 1, 1985.

(5) A maximum of \$25,000 from the general fund appropriation may be spent for the purpose of developing and/or operating a cardiac transplantation unit. The university shall provide a report to the senate and house ways and means committees on January 1, 1986, and January 1, 1987. The report shall detail total expenditures to date by fiscal year and by each fund source relating to the development and/or operation of the cardiac transplantation unit and shall include expenditures from all fund sources.

(6) A minimum of \$789,000 shall be spent for support of computer grants.

(7) \$131,000 of the general fund appropriation ((is)) for fiscal year 1986 and \$131,000 of the general fund appropriation for fiscal year 1987 are provided solely for the handling of the papers of Senator Magnuson and Senator Jackson.

Sec. 602. Section 604, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

	FY 1986	FY 1987
General Fund Appropriation	\$ 125,353,000	((+24,940,000))
		<u>125,062,000</u>
Total Appropriation	\$((250,293,000))	<u>250,415,000</u>

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

(1) \$55,330,000 from the fiscal year 1986 general fund appropriation and \$55,320,000 from the fiscal year 1987 general fund appropriation are provided solely for the instruction program. Not less than a biennial average of \$3,458 per academic year full time equivalent student shall be spent from the state general fund in the instruction program. Of the amounts provided in this subsection, at least \$1,222,000 shall be spent for enhancement of the instructional equipment budget.

(2) The office of financial management shall initially allot for the following:

(a) Equipment	\$3,743,000
(b) Plant operations and maintenance (09)	\$33,092,000
(c) Agriculture Research (021)	\$23,573,000
(d) Cooperative Extension (032)	\$16,505,000

(3) A maximum of \$170,000 may be spent for continued funding of the endrin replacement project.

(4) The college of agriculture and home economics shall establish a plan for agricultural research projects and programs. The plan shall be developed in consultation with representatives of the state's agricultural industry. The plan shall identify the amount of funds allocated to or proposed to be allocated to the research projects and programs, by subject area, during each of fiscal years 1986 and 1987 and shall establish an order of priority for funding the various types and subject areas of agricultural research. The order of priority and funding shall reflect the current and future needs of Washington state agriculture and the process to coordinate with research of other land grant universities. The dean of the college shall submit the plan to the office of financial management and to the ways and means committees of the house of representatives and senate by January 1, 1986.

(5) The salary increases for the faculty of Washington State University, ((effective)) which take effect January 1, 1986, shall be granted solely to reduce critical market disparities in teaching disciplines. For the purposes of this subsection, "faculty" means only those individuals holding faculty appointments in the instruction, research, public service, primary support, and sponsored research programs, including medical residents. The university shall report to the office of financial management its plans for granting salary increases under this section, including but not limited to data on increases to specific disciplines by professorial rank by October 30, 1985. The office of financial management shall report to the ways and means committees of the senate and house of representatives regarding the specific criteria the university will use to measure market disparities in teaching disciplines and to allocate salary increases to reduce such disparities. The report shall be made no later than December 1, 1985.

((7)) (6) A maximum of \$1,165,000 may be spent on intercollegiate sports activities.

(7) \$122,000 of the fiscal year 1987 appropriation is provided solely to fund planned degree programs in business administration, education, and computer sciences at the Southwest Washington joint center for education on the condition that the programs are reviewed and favorably recommended by the higher education coordinating board.

(8) Nothing in this section prevents expenditure for civic improvements.

Sec. 603. Section 605, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

	FY 1986	FY 1987
General Fund Appropriation	\$ 36,274,000	35,293,000
Total Appropriation	\$71,567,000	

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

(1) ~~\$(18,912,000))~~ 18,435,000 from the fiscal year 1986 general fund appropriation and ~~\$(17,932,000))~~ 17,454,000 from the fiscal year 1987 general fund appropriation are provided solely for the instruction program. Not less than a biennial average of ~~\$(2,632))~~ 2,564 per academic year full time equivalent student shall be spent from the state general fund in the instruction program. Of the amounts provided in this subsection, at least \$199,000 shall be spent for enhancement of the instructional equipment budget.

(2) A maximum of \$402,000 may be spent for departmental research fellowships, limited to no more than three months per award.

(3) The office of financial management shall initially allot for the following:

- (a) Equipment \$918,000
- (b) Plant operations and maintenance \$13,072,000

(4) A maximum of \$1,000,000 may be spent on intercollegiate sports activities.

Sec. 604. Section 607, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

	FY 1986	FY 1987
General Fund Appropriation	\$ ((16,768,000))	((16,875,000))
	<u>17,003,000</u>	<u>17,206,000</u>
Total Appropriation	\$(33,643,000))	
	<u>34,209,000</u>	

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

(1) ~~\$(6,813,000)~~ 7,073,000 from the fiscal year 1986 general fund appropriation and ~~\$(7,007,000)~~ 7,273,000 from the fiscal year 1987 general fund appropriation are provided solely for the instruction program. Not less than a biennial average of ~~\$(2,831)~~ 2,797 per academic year full time equivalent student shall be spent from the state general fund in the instruction program. Of the amounts provided in this subsection, at least \$132,000 shall be spent for enhancement of the instructional equipment budget. Of the amounts provided in this subsection, at least \$582,000 shall be spent for enrollments in underserved urban areas.

(2) A maximum of \$130,000 may be spent for departmental research fellowships, limited to no more than three months per award.

(3) \$20,000 is provided solely for fiscal year 1986 from the general fund appropriation for the Washington state institute for public policy to complete the Washington state minorities incarceration study using the staff of the University of Washington. \$15,000 of this amount is provided solely for increasing the number of sample counties in the study. \$5,000, or the amount equal to the unexpended balance of the 1983-85 appropriation for this purpose, is provided solely for continuation of the original study. The expanded study shall be presented to the legislature by November 1, 1985.

(4) ~~\$(75,000)~~ 50,000 of the fiscal year 1986 and \$45,000 of the fiscal year 1987 general fund appropriations ~~((is))~~ are provided solely for the institute of public policy to conduct a study using the staff of the school of business administration at the University of Washington to update the 1972 Washington input-output study. The study shall be completed and a report made to the senate and house ways and means committees by June 30, ~~((1986))~~ 1987.

(5) A maximum of \$40,000 from the general fund—state appropriation may be spent for matching funds as provided in this subsection. The Washington state center for the improvement of the quality of undergraduate instruction shall include The Evergreen State College, as a participant with other higher education institutions desiring to participate, in instructional program innovation through the establishment of federated learning centers. State funds shall be matched with cash matching funds to the greatest extent possible.

(6) The office of financial management shall initially allot for the following:

(a) Equipment	\$722,000
(b) Plant operations and maintenance	\$6,184,000

(7) A maximum of \$178,000 may be spent on intercollegiate sports activities.

(8) \$20,000 of the fiscal year 1987 appropriation is provided solely to the institute of public policy to conduct a study of social, economic, and demographic trends and their policy implications for the state of Washington.

Sec. 605. Section 608, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

	FY 1986	FY 1987
General Fund Appropriation \$	38,731,000	((37,603,000))
		<u>37,657,000</u>
Total Appropriation \$	((76,333,000))	
	<u>76,388,000</u>	

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

(1) \$22,582,000 from the fiscal year 1986 general fund appropriation and \$21,442,000 from the fiscal year 1987 general fund appropriation are provided solely for the instruction program. Not less than a biennial average of \$2,668 per academic year full time equivalent student shall be spent from the state general fund in the instruction program. Of the amounts provided in this subsection, at least \$371,000 shall be spent for enhancement of the instructional equipment budget. Of the amounts provided in this subsection, a maximum of \$40,000 may be spent on activities related to federated learning centers.

(2) A maximum of \$407,000 may be spent for departmental research fellowships, limited to no more than three months per award.

(3) The office of financial management shall initially allot for the following:

- (a) Equipment \$1,991,000
- (b) Plant operations and maintenance \$9,752,000

(4) A maximum of \$395,000 may be spent on intercollegiate sports activities.

(5) \$54,000 of the general fund appropriation for fiscal year 1987 is provided solely for the Peoples Republic of China exchange training program: PROVIDED, That at least fifty percent of the expenses of the program shall be provided from nonappropriated and private fund sources.

NEW SECTION. Sec. 606. There is hereby appropriated from the general fund \$881,000 for fiscal year 1987 summer quarter support on the condition that the universities receiving this appropriation implement and collect summer quarter tuition fees at the same rates established for the regular academic quarter. This appropriation shall be disbursed according to the following schedule:

Central Washington University	\$295,000
Eastern Washington University	\$220,000
Western Washington University	\$366,000

Sec. 607. Section 609, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE ((COUNCIL FOR POSTSECONDARY EDUCATION))
HIGHER EDUCATION COORDINATING BOARD

	FY 1986	FY 1987
General Fund Appropriation—		
State	\$ ((17,966,000))	((17,967,000))
	<u>17,166,000</u>	<u>18,917,000</u>
General Fund Appropriation—		
Federal	\$ 1,817,000	1,817,000
State Educational Grant Appropriation	\$ 20,000	20,000
Total Appropriation	\$ ((39,607,000))	
	<u>39,757,000</u>	

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

(1) No later than June 30, 1986, the ((council's)) board's first priority shall be to provide financial assistance to the core of students with extremely high unmet need. The ((council)) board shall adopt a definition for this group of students and provide financial aid for all such students at a standard to be established by the ((council)) board. To the greatest extent possible, the ((council)) board shall emphasize work study and other self-help programs in its financial assistance programs.

(2) The ((council)) board shall take all necessary management precautions to ensure that financial aid awards to individuals and institutions do not exceed the amounts provided in subsection (1) of this section. Any over-commitment of funds shall be paid directly from the funds provided for the coordination and policy analysis program until those funds are exhausted.

NEW SECTION. Sec. 608. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION

General Fund Appropriation	\$ 1,729,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,629,000 of the appropriation shall be expended solely to satisfy judgments and claims incurred from the deferral of faculty salary increases during the 1981-83 fiscal biennium. The appropriation shall be spent for all salary and interest costs incurred in fiscal year 1983. Additional costs related to the salary deferral but incurred after fiscal year 1983 shall be borne by the districts incurring such costs. Acceptance of the proceeds of this appropriation shall result in complete discharge of all claims of any nature whatsoever of all plaintiffs regarding the 1981-83 salary deferral.

(2) \$100,000 of this appropriation is provided solely to implement a pilot program for volunteer literacy tutorial coordination. The pilot program shall be jointly coordinated by the superintendent of public instruction and the state board for community college education with special emphasis on raising the potential of adult illiterates for permanent employment.

By January 1988, the superintendent of public instruction and the state board of community college education shall provide the appropriate legislative standing committees with a report on the educational history of students in adult literacy programs and in other publicly funded programs designed to provide adults with basic educational skills; the highest grade level attained by students; the states where the students attended school; and the amount of time the students spent in Washington schools.

NEW SECTION. Sec. 609. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

The senate committee on education, the house of representatives committee on higher education, and the committees on ways and means of the senate and house of representatives shall conduct a study of higher education faculty salaries and shall make recommendations to the legislature by December 1, 1986.

PART VII
SPECIAL APPROPRIATIONS

*Sec. 701. Section 701, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE GOVERNOR—EMERGENCY FUND
General Fund Appropriation—State \$ 1,700,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is for the governor's emergency fund to be allocated for the carrying out of the critically necessary work of any agency.

(2) \$100,000 of this appropriation may be spent for law enforcement and social service problems arising from Expo '86.

*Sec. 701 was partially vetoed, see message at end of chapter.

Sec. 702. Section 702, chapter 6, Laws of 1985 ex. sess. as amended by section 1, chapter 1, Laws of 1986 (uncodified) is amended to read as follows:

FOR THE GOVERNOR—COMPARABLE WORTH IMPLEMENTATION AND LAWSUIT
General Fund Appropriation \$ 26,790,000
Special Fund Salary Increase
Revolving Fund Appropriation \$ 19,120,000
Total Appropriation \$ 45,910,000

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

(1) \$644,500 of the general fund appropriation and \$326,250 of the special fund salary increase revolving fund appropriation are provided solely for a salary increase for those job classifications tied to salary survey benchmarks falling 8 ranges or more below the January 1, 1985, actual average comparable worth line as calculated under the formula of $\$983.72 + (\$3.28 \times \text{points})$ and rounded to the nearest Step G or equivalent step for shortened ranges. However, a job classification shall receive an increase only if its salary range as of January 1, 1985, is also 8 or more ranges less than the salary range of that classification as calculated under the aforementioned formula using the evaluation points of that classification as adopted by the respective personnel board. This adjustment shall take place July 1, 1985, and shall equal \$75 a year for all affected classes and employees and shall terminate on March 30, 1986.

(2) \$350,000 of the general fund—state appropriation shall be used solely by the office of the governor to hire an independent consultant with expertise in developing and evaluating public employee job classification systems and implementing comparable worth. The consultant shall:

- (a) Review the Willis methodology;
- (b) Update job class specifications for all job classes with incumbents that have not been reviewed for the past five years;
- (c) Develop a new benchmark and indexing structure which reflects the evaluated worth of the job classes; and
- (d) Evaluate the job class specifications for the implementation of comparable worth.

(3) The department of personnel and the higher education personnel board shall provide any assistance needed by the consultant to perform the activities in subsection (2) of this section. Both the state personnel board and higher education personnel board must submit joint reports to the legislature on the progress to date in implementing the consultant's recommendations no later than January 1, 1986, and July 1, 1986. On January 1, 1987, both boards shall submit a final report to the legislature.

(4) \$150,000 of the general fund—state appropriation and \$100,000 of the special fund salary increase revolving fund appropriation shall be used solely for the office of the governor to allocate to agencies that provide technical assistance to the consultant hired under subsection (2) of this section.

(5) \$25,545,500 of the general fund appropriation and $\$((+8,793,750))$ 18,693,750 of the special fund salary increase revolving fund appropriation, along with all moneys currently included in agencies' budgets for payment of the \$100 per year comparable worth salary increase pursuant to chapter 76, Laws of 1983 1st ex. sess., are provided for the settlement of all claims

of all plaintiffs and class members of American Federation of State, County, and Municipal Employees, et al. v. State of Washington, et al., Cause Nos. C82-4657, 84-3569, and 84-3590 and the implementation of comparable worth pursuant to RCW 28B.16.116 and RCW 41.06.155. The settlement shall result in complete discharge of all claims of any nature whatsoever of all plaintiffs and class members. It is the intent of the legislature that salary adjustments for affected class members not exceed the adjustment calculated using the average actual comparable worth salary line as applied to the Willis evaluation points of the affected job classification and adopted by the state personnel board and the higher education personnel board: **PROVIDED**, That on or before the dates on which comparable worth increases become effective, the higher education personnel board shall review the salaries of all job classifications receiving comparable worth increases which are also receiving special pay to determine whether the requirements of WAC 251-09-090 continue to be met and shall make any reductions in special pay necessary to adjust for the increases in base pay resulting from comparable worth adjustments. The governor as the chief executive officer of the state, with the assistance of the attorney general, is authorized to seek a proposed settlement. However, any such settlement is tentative and subject to legislative ratification. \$100,000 of the general fund appropriation is provided solely for the office of the governor to retain any special consultants or negotiators to work with the attorney general in seeking a settlement of American Federation of State, County, and Municipal Employees, et al. v. State of Washington, et al., within the terms of the appropriation as set out in this subsection. If a tentative settlement is reached within the terms of the appropriation within this subsection, the governor and the attorney general shall jointly present a report on the tentative settlement to the legislature no later than January 1, 1986, for ratification. No funds shall be released before April 1, 1986, or until such time as stipulated final judgment is entered under the terms of the tentative settlement ratified by the legislature, whichever is later. The appropriation provided for settlement in this subsection shall lapse if no proposal is brought before the legislature before January 1, 1986, if the tentative settlement brought before the legislature is not ratified by the legislature during the 1986 legislative session, or if stipulated final judgment is not entered before June 30, 1986.

(6) The department of personnel and the higher education personnel board shall provide monthly reports to the legislative evaluation and accountability program committee regarding the steps each has taken, or proposes to take, to implement the settlement agreement referred to in subsection (5) of this section. The reports will include information on all disputes or potential disputes regarding implementation which have been brought to the attention of the two agencies.

The legislative evaluation and accountability program committee shall report to the legislature regarding the implementation steps taken by, and potential disputes facing, the department of personnel and the higher education personnel board. Such reports shall be provided as often as deemed necessary by the committee, but no later than June 1, 1986, December 1, 1986, and April 1, 1987.

(7) The department of personnel and the higher education personnel board shall report to the legislature by January 1, 1986, with a report identifying those job classifications not covered by the lawsuit that would be entitled to receive adjustments under the average actual comparable worth line. The report shall include recommendations regarding implementation of comparable worth adjustments for these affected job classes.

(8) To facilitate payment of salary increases from special funds, the state treasurer is directed to transfer sufficient income from each special fund to the special fund salary and insurance contribution increase revolving fund hereby created in accordance with schedules provided by the office of financial management.

NEW SECTION. Sec. 703. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

FOR THE GOVERNOR—COMPENSATION INCREASES

The appropriations in this section, or so much thereof as may be necessary, shall be expended exclusively for the purposes designated in this section and are subject to the conditions and limitations specified in this section.

(1) There is appropriated for department of personnel classified and exempt employees and higher education personnel board classified employees a 2.5 percent or \$50 per month, whichever is greater, salary increase for all job classes effective September 1, 1986. This increase will be implemented in compliance and conformity with all requirements of the comparable worth agreement ratified by 1986 Senate Concurrent Resolution No. 126. Those job classifications which received the 1984 \$100 per year comparable worth salary increase but are not entitled to an adjustment pursuant to the comparable worth agreement shall continue to receive that salary increase, with the increase being credited against what is authorized in this subsection as a general salary increase effective September 1, 1986.

General Fund Appropriation—State	\$	15,952,000
General Fund Appropriation—Federal	\$	3,612,000
Special Fund Salary Increase Revolving Fund		
Appropriation	\$	7,855,000
Total Appropriation	\$	27,419,000

(2) There is appropriated for higher education graduate assistants a three percent salary increase effective September 1, 1986.

General Fund Appropriation—State	\$	397,000
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(3) There is appropriated for faculty and exempt employees of the four-year institutions of higher education a three percent salary increase effective September 1, 1986: PROVIDED, That no institution may grant from any fund source whatsoever any salary increases greater than that provided in this subsection.

General Fund Appropriation	\$	6,267,000
Special Fund Salary Increase Revolving Fund		
Appropriation	\$	30,000
Total Appropriation	\$	6,297,000

(4) There is appropriated for all faculty and exempt employees of the state board for community colleges, a three percent salary increase effective September 1, 1986: PROVIDED, That no community college district may grant from any fund source whatsoever any salary increase greater than provided in this section, and that the salary increase authorized in this section shall be calculated using the fiscal year 1984-85 salary base.

General Fund Appropriation	\$	3,948,000
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(5) There is appropriated for commissioned officers of the Washington state patrol a five percent salary increase effective July 1, 1986.

General Fund Appropriation	\$	92,000
Motor Vehicle—State Patrol Highway Ac-		
count Appropriation	\$	1,492,000
Total Appropriation	\$	1,584,000

Sec. 704. Section 706, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—
LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RE-
TIREMENT CONTRIBUTIONS**

	FY 1986	FY 1987
General Fund Appropriation	\$ 143,000,000	((143,000,000))
		<u>133,895,059</u>
<u>General Fund—Revenue Accrual Account</u>		
<u>Appropriation</u>	<u>\$</u>	<u>9,104,941</u>
Total Appropriation	\$286,000,000	

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section shall be transferred on a quarterly basis.

(1) \$27,500,000 of the fiscal year 1986 appropriation and \$27,500,000 of the fiscal year 1987 appropriation are provided solely for payment for unfunded liability of the law enforcement officers' and fire fighters' retirement system.

(2) The fiscal year 1986 appropriation for unfunded liability shall be transferred to the department of retirement systems on a quarterly basis.

The fiscal year 1987 appropriation for unfunded liability shall be transferred to the department of retirement systems on a quarterly basis.

NEW SECTION. Sec. 705. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

FOR THE STATE TREASURER—TRANSFERS

General Fund Appropriation: For transfer to the Washington Distinguished Professorship Trust Fund pursuant to RCW 28B-

.10.860 through 28B.10.865 \$ 750,000

NEW SECTION. Sec. 706. A new section is added to chapter 6, Laws of 1985 ex. sess. to read as follows:

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 financial management, except as otherwise provided, as follows:

- (1) In settlement of all claims for expenses in State v. Johnson, Superior Court for Chelan County, Judgment No. 85-1-00020-1, pursuant to RCW 9.01.200, including interest \$ 17,345.16
- (2) In settlement of all claims for expenses in State v. Negrin, Superior Court for Island County, Judgment No. 85-1-000308, pursuant to RCW 9.01.200, including interest \$ 42,121.18
- (3) In settlement of all claims for expenses in State v. Dowd, Superior Court for Snohomish County, Judgment No. 84-1-00630-1, pursuant to RCW 9.01.200, including interest \$ 8,122.97
- (4) In settlement of all claims for expenses in State v. Ford, Superior Court for Snohomish County, Judgment No. 85-1-00105-7, pursuant to RCW 9.01.200, including interest \$ 6,508.84
- (5) In settlement of all claims for expenses in Seattle v. Semaan, Municipal Court of Seattle, Judgment No. 85-2180747, pursuant to RCW 9.01.200, including interest \$ 1,348.19
- (6) In settlement of all claims for expenses in Garden v. State, Superior Court for King County, Judgment No. 84-2-00837-7,

pursuant to RCW 9.01.200, including interest	\$	8,090.33
(7) In settlement of all claims for expenses in Seattle v. Myer, Municipal Court of Seattle, Judgment No. 85-1260767, pursuant to RCW 9.01.200, including interest	\$	1,455.68
(8) In settlement of all claims for expenses in State v. Davis, Superior Court for Mason County, Judgment No. 4146444 and Judgment No. 85-1-90-1, both pursuant to RCW 9.01.200, including interest	\$	14,718.90
(9) In settlement of all claims for expenses in State v. Sloan, Superior Court for Chelan County, Judgment No. 85-1-00147-9, pursuant to RCW 9.01.200, including interest	\$	14,721.81
(10) In settlement of all claims for expenses in State v. Kinyon, Superior Court for Benton County, Judgment No. 85-1-00241-9, pursuant to RCW 9.01.200, including interest	\$	33,859.02
(11) In settlement of all claims for expenses in State v. Brosseau, Superior Court for Clark County, Order of Dismissal No. 84-1-00620-0, pursuant to RCW 9.01.200, including interest	\$	15,835.07
(12) To the department of social and health services, in settlement of all claims in Family Medical Building, Inc. v. State, Superior Court for Okanogan County, Stipulated Judgment No. 23937: PROVIDED, That \$104,000 of this appropriation shall be from federal funds	\$	260,000.00
(13) Compensation to the following for all pending claims of damage to crops by game: PROVIDED, That payment shall be made from the Game Fund:		
(a) Ted Richert	\$	346.42
(b) Keith Schober	\$	1,700.00

Sec. 707. Section 711, chapter 6, Laws of 1985 ex. sess. (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

General Fund Appropriation for fire insurance premiums tax distribution	\$	((4,337,900))
		<u>3,599,171</u>
General Fund Appropriation for public utility district excise tax distribution	\$	((21,932,000))
		<u>22,129,000</u>
General Fund Appropriation for prosecuting attorneys' salaries	\$	1,708,071
General Fund Appropriation for motor vehicle excise tax distribution	\$	((43,415,000))
		<u>45,955,000</u>
General Fund Appropriation for local mass transit assistance	\$	((136,800,000))
		<u>138,500,000</u>
General Fund Appropriation for camper and travel trailer excise tax distribution	\$	((1,263,292))
		<u>1,712,190</u>
General Fund—((Harbor Improvement)) <u>Aquatic Lands Enhancement Account</u> Appropriation for ((harbor improvement)) <u>aquatic lands revenue distribution</u>	\$	((22,073))
		<u>56,100</u>
Liquor Excise Tax Fund Appropriation for liquor excise tax distribution	\$	((18,778,000))
		<u>17,881,633</u>
Motor Vehicle Fund Appropriation for motor vehicle fuel tax ((and overload penalties)) distribution	\$	((269,336,034))
		<u>257,401,676</u>
Liquor Revolving Fund Appropriation for liquor profits distribution	\$	((44,000,000))
		<u>41,000,000</u>
General Fund—Timber Tax Distribution Account Appropriation for distribution to "Timber" counties	\$	((37,760,000))
		<u>36,890,000</u>
General Fund—Municipal Sales and Use Tax Equalization Account Appropriation	\$	((23,378,000))
		<u>24,745,000</u>
General Fund—County Sales and Use Tax Equalization Account Appropriation	\$	((7,858,000))
		<u>8,300,000</u>
General Fund—Death Investigations Account Appropriation for distribution to		

counties for public funded autopsies	\$	((200,000))
		<u>480,000</u>
Total Appropriation	\$	((610,788,370))
		<u>600,357,841</u>

PART VIII
CAPITAL PROJECTS

NEW SECTION. Sec. 801. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

To conduct a feasibility study of an economic development project in the city of Tacoma.

	Reappropriation	Appropriation
GF, St Bldg Constr Acct		100,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		100,000

The appropriation in this section is subject to the following conditions and limitations: Before expending funds under this section, the department shall secure an option or agreement to purchase project property at a fixed price. This option may be secured directly by the state or by agreement with the city of Tacoma in the event that the city secures a direct option.

NEW SECTION. Sec. 802. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Property acquisition option to be negotiated on behalf of the state for an extension of Ft. Steilacoom Community College.

	Reappropriation	Appropriation
GF, CEP & RI Acct		300,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		300,000

NEW SECTION. Sec. 803. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION

Provide parking and road improvements for public and constituent use at 16th Avenue and Cherry Street in Olympia to accommodate up to 375 vehicles, to be completed by January 1, 1987: PROVIDED, That the parking area authorized in this section will be used for displacement parking if a natural resources facility is constructed on the east capitol campus: PROVIDED FURTHER, That amounts not needed for the purposes of this section may be spent for purposes provided in section 804 of this 1986 act.

	Reappropriation	Appropriation
GF, Cap Bldg Constr Acct		400,000
GF, Cap Purch & Dev Acct		1,000,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		1,400,000

NEW SECTION. Sec. 804. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION

Provide road and traffic control and operational improvements at I-5, Exit 105 and Jefferson/Cherry Streets, to be completed by January 1, 1987.

	Reappropriation	Appropriation
Motor Vehicle Fund		600,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		600,000

Sec. 805. Section 256, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

State-wide code compliance: Transformers (PCB) (CR-86-1-012)

	Reappropriation	Appropriation
GF, St Fac Renew Acct		100,000
<u>GF, CEP & RI Acct</u>		<u>100,000</u>
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs

6/30/85

Thereafter

~~((400,000))~~

500,000

300,000

NEW SECTION. Sec. 806. A new section is added to chapter 373, Laws of 1985 to read as follows:

DEPARTMENT OF CORRECTIONS

The department of corrections shall develop a six-year plan for its institutional industries programs. The six-year institutional industries plan shall be separate but compatible with the agency's six-year capital plan as submitted to the governor for inclusion in the governor's state facilities and capital plan. The institutional industry plan shall include but not be limited to the identification of proposed new programs or expansion/reduction of existing programs, the numbers of estimated jobs created or lost, cost estimates of new construction/renovation, and related equipment and related operating cost estimates. The six-year institutional industries plan shall be submitted to the office of financial management in conjunction with its annual capital budget request.

NEW SECTION. Sec. 807. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Construction of a movable tall ships tourist attraction in cooperation with the Grays Harbor tall ships restoration society. This appropriation is contingent on the issuance of general obligation bonds of \$500,000 by Grays Harbor county or any city or municipal entity within Grays Harbor county for the purpose of this tourist attraction.

	Reappropriation	Appropriation
General Fund		500,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		500,000

NEW SECTION. Sec. 808. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT

Low-income refugee housing projects

	Reappropriation	Appropriation
General Fund		700,000
Project	Estimated	Estimated

Costs Through 6/30/85	Costs 7/1/87 and Thereafter	Total Costs
		700,000

The appropriation in this section is provided solely for matching funds to local governments, nonprofit agencies, or other municipal corporations, except housing authorities, for a housing project to be primarily occupied by low-income refugee families or individuals. The housing project may be located only in a county in which at least ten percent of refugees receiving income assistance from the department of social and health services reside. Local government matching funds for these moneys shall not include federal or other state housing funds or costs for administering funds provided under this section. Expenditure of these funds shall be limited to acquisition, new construction, renovation, or other development costs.

NEW SECTION. Sec. 809. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Nalley Valley Farm earnest money (Skokomish River Delta)

	Reappropriation	Appropriation
General Fund		50,000
Project Costs Through 6/30/85	Estimated Costs 7/1/87 and Thereafter	Estimated Total Costs
		50,000

The appropriation in this section is subject to the following conditions and limitations: This appropriation shall only be expended when the department of community development evaluation of the site use is completed and recommends purchase. The earnest money shall be returned to the general fund if the property purchase is not contained in the 1987 capital budget.

NEW SECTION. Sec. 810. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF FISHERIES

Adult holding and spawning: Wishkah River

	Reappropriation	Appropriation
GF, Sal Enhmt Constr Acct		300,000
Project Costs	Estimated Costs	Estimated Total

Through 1/1/86	7/1/86 and Thereafter	Costs
	300,000	300,000

The appropriation in this section shall lapse if substantial progress has not been made in a timely manner as determined by the office of financial management.

NEW SECTION. Sec. 811. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF GAME

Migratory Waterfowl Habitat Projects (CI-87-3-034)

	Reappropriation	Appropriation
State Game Fund		330,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		330,000

NEW SECTION. Sec. 812. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE DEPARTMENT OF GAME

Barnaby Slough steelhead rearing pond

	Reappropriation	Appropriation
General Fund		210,000
Game Fund—Federal		210,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		420,000

The appropriation in this section is subject to the following conditions and limitations: Expenditures of general fund moneys under this section shall not exceed expenditures of game fund—federal moneys under this section. If Initiative 90 is approved by the voters at the 1986 general election, the state treasurer shall transfer from the game fund to the general fund an amount equal to the total general fund expenditure under this section.

Sec. 813. Section 591, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE STATE CONVENTION AND TRADE CENTER

Washington State Convention and Trade Center (CI-83-R-001)

	Reappropriation	Appropriation
GF, Convention Center Acct	((85,418,000))	
	<u>85,874,334</u>	
Project Costs Through 6/30/85	Estimated Costs 7/1/87 and Thereafter	Estimated Total Costs
((10,832,000))		96,250,000
<u>10,375,666</u>		

Sec. 814. Section 312, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION

Design of the heavy equipment building: Grays Harbor (CI-86-3-L04)

	Reappropriation	Appropriation
GF, St H Ed Constr Acct		60,000
Project Costs Through 6/30/85	Estimated Costs 7/1/87 and Thereafter	Estimated Total Costs
	((755,000))	755,000
	<u>695,000</u>	

NEW SECTION. Sec. 815. A new section is added to chapter 373, Laws of 1985 to read as follows:

FOR THE STATE BOARD FOR COMMUNITY COLLEGE EDUCATION

Lower Columbia roof repairs

	Reappropriation	Appropriation
GF, St H Ed Constr Acct	9,150	
Project Costs Through 6/30/85	Estimated Costs 7/1/87 and Thereafter	Estimated Total Costs
1,237,650		1,246,800

Sec. 816. Section 374, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

~~((Fisheries renovation))~~ To provide for occupancy code requirement repairs to the existing Fisheries Building, and to design and construct an addition to the Marine Institute Building or a stand-alone facility (CR-86-1-014)

	Reappropriation	Appropriation
GF, St H Ed Constr Acct		6,000,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		6,000,000

Sec. 817. Section 201, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Referendum 37 projects (CI-79-3-R01)

Approve, construct, renovate, and equip facilities for the care, training, and rehabilitation of persons with physical or mental handicaps, involving ~~((eleven))~~ four projects ~~((, of which two are reductions in scope from prior legislative approval))~~. Moneys allocated to a project under this section shall revert for reallocation if the final application for the project has not been submitted by December 31, ~~((+1985))~~ 1986, and approved by March 31, ~~((+1986))~~ 1987.

	Reappropriation	Appropriation
GF, Hndcp Fac Constr Acct	4,242,000	<u>115,126</u>
GF, LIRA, DSHS Fac		90,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		25,090,000
((20,758,000))		
<u>20,642,000</u>		

NEW SECTION. Sec. 818. A new section is added to chapter 373, Laws of 1985 (uncodified) to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Construct administrative and support space for the close-to-home living unit for mentally ill children, Pearl Street facility, Referendum 29 projects (CR-86-1-R03)

	Reappropriation	Appropriation
GF, LIRA, DSHS Fac		78,000
Project	Estimated	Estimated
Costs	Costs	Total
Through	7/1/87 and	Costs
6/30/85	Thereafter	
		78,000

Sec. 819. Section 716, chapter 373, Laws of 1985 (uncodified) is amended to read as follows:

(1) A maximum of \$~~(+21,800,000)~~ 148,400,000 of the appropriations and reappropriations provided in sections 301 through 309 of this act may be disbursed during the 1985-87 biennium.

(2) Reappropriations in sections 301 through 305 of this act are reauthorizations of appropriations from section 887, chapter 57, Laws of 1983 1st ex. sess. Proceeds of the sale of bonds authorized by chapter 266, Laws of 1984 may be used for the support of these projects.

PART IX
MISCELLANEOUS

Sec. 901. Section 4, chapter 39, Laws of 1970 ex. sess. as last amended by section 24, chapter 57, Laws of 1985 and RCW 41.05.040 are each amended to read as follows:

There is hereby created a fund within the state treasury, designated as the "state employees insurance fund", to be used by the trustee as a revolving fund for the deposit of contributions, dividends and refunds, and for payment of premiums for employee insurance benefit contracts entered into in accordance with instructions of the board and payments authorized by RCW 41.05.030(2). Moneys from the state employees insurance fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the trustee. However, before June 30, 1987, the treasurer shall not disburse moneys from the fund when the disbursement would result in a fund balance of less than \$11,597,000. Notwithstanding RCW 43.84.090, all earnings of investments of balances in the state employees insurance fund shall be credited to this fund.

Sec. 902. Section 12, chapter 167, Laws of 1975 1st ex. sess. as amended by section 28, chapter 57, Laws of 1985 and by section 507, chapter 405, Laws of 1985 and RCW 43.19.610 are each reenacted and amended to read as follows:

There is hereby established in the state treasury an account to be known as the motor transport account into which shall be paid all moneys, funds, proceeds, and receipts as provided in RCW 43.19.615 and as may otherwise be provided by law. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or his duly authorized representative and as may be provided by law. All earnings of investments of balances in the motor transport account shall be credited to the general fund.

The (~~office of financial management may direct the~~) state treasurer (~~to~~) shall transfer to the general fund (~~an amount not to exceed \$1,500,000~~) two million dollars from the motor transport account (~~for the 1983-85 fiscal biennium~~) on or before June 30, 1987.

NEW SECTION. Sec. 903. The state treasurer shall transfer to the general fund \$1,500,000 from the public facilities construction loan and grant revolving account on or before June 30, 1987.

NEW SECTION. Sec. 904. Section 3, chapter 50, Laws of 1984 (uncodified) is repealed.

NEW SECTION. Sec. 905. 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. 906. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 10, 1986.

Passed the House March 3, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to sections 103(6), 201(2)(f), 206(5), 207(1), 209(2), 211(9) and 701(2), Engrossed Substitute Senate Bill No. 4762 entitled:

"AN ACT Relating to fiscal matters."

The provisions I have vetoed and the reasons therefore are as follows:

Sections 103(6), 206(5) and 209(2) place significant and specific unfunded study requirements on various agencies. While each of the study topics warrant investigation, it is unreasonable to mandate such significant efforts without consideration of costs.

Section 201(2)(f) provides funds to reopen Firlands Correction Center. Firlands was closed as a result of programmatic and fiscal considerations which have not changed. The funds provided are insufficient to cover the cost of operating the facility in accordance with state standards.

Section 207(1) would prohibit responsible action by the Department of Social and Health Services to prevent the spread of AIDS.

Section 211(9) provides state General Fund monies to reimburse local fire districts for fire fighting services rendered on Department of Game lands. While I support reimbursement of local fire districts for services provided to state agencies, this cost is properly an obligation of the Department of Game and its dedicated funds. Financial segregation of Game Department activities should be continued until the Department is brought under executive control and a thorough review of its finances and programs indicates General Fund supplementation is appropriate.

Section 701(2) provides that monies from an existing appropriation to the Emergency Fund may be spent for law enforcement and social service problems arising from Expo '86. If the problems addressed by section 701(2) constitute an emergency, I will consider an allocation from the Emergency Fund. Otherwise, the Legislature should provide for these needs with a direct appropriation rather than limiting my ability to meet critical needs in state government.

In addition to the explanation of these vetoes, a comment is necessary regarding section 812. This section of the supplemental budget provides \$210,000 from the General Fund and \$210,000 in federal Game Funds for the purposes of rehabilitation work on the Barnaby Slough steelhead rearing pond. State funding for this project was terminated in 1981. The people of Skagit County have undertaken tremendous volunteer efforts to keep this project going and to preserve the steelhead resources of the area. Countless hours of labor and approximately \$10,000 has been donated toward the operation of Barnaby Slough. It is only because of this impressive community effort that I am approving this provision. My decision to allow use of General Fund monies for this project should not be considered a precedent for any future General Fund support of the Game Department. The Department and the Commission should understand that access to these taxpayer funds will require the highest level of public accountability. The Department cannot have it both ways. If it wants to remain free of executive oversight, it should not have access to general taxpayer funds. The public has a proper right to far greater oversight of an agency to which its general tax dollars are allocated.

With the exception of sections 103(6), 201(2)(f), 206(5), 207(1), 209(2), 211(9) and agency to which its general tax dollars are allocated."

CHAPTER 313

[Substitute Senate Bill No. 4905]
TRANSPORTATION BUDGET

AN ACT Relating to transportation; amending RCW 43.10.100; amending section 6, chapter 460, Laws of 1985 (uncodified); amending section 7, chapter 460, Laws of 1985 (uncodified); amending section 9, chapter 460, Laws of 1985 (uncodified); amending section 10, chapter 460, Laws of 1985 (uncodified); amending section 12, chapter 460, Laws of 1985 (uncodified); amending section 15, chapter 460, Laws of 1985 (uncodified); amending section 16, chapter 460, Laws of 1985 (uncodified); amending section 17, chapter 460, Laws of 1985 (uncodified); amending section 18, chapter 460, Laws of 1985 (uncodified); amending section 19, chapter 460, Laws of 1985 (uncodified); amending section 20, chapter 460, Laws of 1985 (uncodified); amending section 21, chapter 460, Laws of 1985 (uncodified); amending section 25, chapter 460, Laws of 1985 (uncodified); amending section 27, chapter 460, Laws of 1985 (uncodified); creating a new section; making appropriations; and declaring an emergency.

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

Sec. 1. Section 6, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE STATE PATROL—FIELD OPERATIONS BUREAU

Motor Vehicle Fund—State Patrol Highway

Account Appropriation	\$	((86,582,000))
		<u>89,399,000</u>

The appropriation in this section does not provide for any increase in state patrol troopers' salaries.

Sec. 2. Section 7, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE STATE PATROL—SUPPORT SERVICES BUREAU

Motor Vehicle Fund—State Patrol Highway

Account Appropriation	\$	((31,696,000))
		<u>32,106,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) The state patrol shall conduct a study to determine the level of fees that would be necessary to recover the actual costs incurred in providing training services to other law enforcement agencies at the state patrol academy.

(2) Up to \$250,000 is provided to implement the recommendations of the legislative transportation committee study of the budget, accounting, and other related systems of the state patrol. No moneys may be expended under this subsection without the prior approval of the legislative transportation committee.

(3) The appropriation in this section does not provide for any increase in state patrol troopers' salaries.

Sec. 3. Section 9, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES

Motor Vehicle Fund Appropriation	\$	((32,891,000))
		<u>33,704,000</u>
Game Fund Appropriation.....	\$	((323,000))
		<u>354,000</u>
Total Appropriation	\$	((33,214,000))
		<u>34,058,000</u>

The appropriations in this section are subject to the following conditions and limitations: Computer terminal equipment purchased for the county auditor automation project shall be provided only to the auditors or licensing divisions of the 39 counties, the presently authorized 157 sub-agents, and the department of licensing's vehicle licensing counter. The department shall by ~~((January 13))~~ December 15, 1986, present to the legislative transportation committee a detailed report on implementation of

the county auditor automation project, including equipment purchased and installed, and revised six-year cost estimate.

Sec. 4. Section 10, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES

General Fund—Public Safety and Education

Account Appropriation	\$	2,056,000
Highway Safety Fund Appropriation	\$	((30,005,000))
		<u>30,215,000</u>

Highway Safety Fund—Motorcycle Safety

Education Account Appropriation.....	\$	((+93,000))
		<u>226,000</u>

Total Appropriation	\$	((32,254,000))
		<u>32,497,000</u>

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

(1) The appropriations in this section provide no moneys for the administrative suspension of drivers' licenses pursuant to chapter 165, Laws of 1983 (SHB 289).

(2) The appropriations in this section provide no moneys for the "predriver education program" operated by the department and no funds may be expended by the department for this purpose.

Sec. 5. Section 12, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—INFORMATION SYSTEMS

Game Fund Appropriation	\$	4,000
Highway Safety Fund Appropriation	\$	((3,538,000))
		<u>3,913,000</u>

Motor Vehicle Fund Appropriation	\$	((+1,687,000))
		<u>12,062,000</u>

Total Appropriation	\$	((+5,229,000))
		<u>15,979,000</u>

The appropriations in this section are subject to the following conditions and limitations: Not more than \$375,000 of the motor vehicle fund appropriation and \$375,000 of the highway safety fund appropriation are provided for a study to analyze the long-range motor vehicle and driver information system requirements of the department and the information system alternatives that will provide efficient and effective means of meeting these requirements. The department shall provide a preliminary report of the progress of this study to the legislative transportation committee by January 1, 1987. The department shall not proceed beyond the management

assessment phase of this project without the approval of the legislative transportation committee.

Sec. 6. Section 15, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM A

Motor Vehicle Fund Appropriation—State	\$	((109,000,000))	<u>109,900,000</u>
Motor Vehicle Fund Appropriation—Federal and Local	\$	((124,000,000))	<u>134,900,000</u>
Total Appropriation	\$	((233,000,000))	<u>244,800,000</u>

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. Any amounts expended during the 1983–85 biennium from the motor vehicle fund—state appropriation in excess of the amount appropriated under section 21, chapter 53, Laws of 1983 1st ex. sess. as amended by chapter 2, Laws of 1984 shall be transferred to reserve status from amounts appropriated from the motor vehicle fund—state by this section.

If federal funds become available for the Mt. St. Helens road, the transportation commission, in consultation with the legislative transportation committee, shall seek unanticipated receipts for design and construction of the Mt. St. Helens road.

Sec. 7. Section 16, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM B

Motor Vehicle Fund Appropriation—State	\$	((52,000,000))	<u>57,000,000</u>
Motor Vehicle Fund Appropriation—Federal and Local	\$	((478,000,000))	<u>523,000,000</u>
Total Appropriation	\$	((530,000,000))	<u>580,000,000</u>

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 appropriation of \$~~((52,000,000))~~ 57,000,000 in state funds includes \$32,600,000 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 \$~~((19,400,000))~~ 24,400,000 in proceeds from the sale of

bonds 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.

In the event 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 not to exceed \$10,000,000 and it is understood that the department shall seek unanticipated receipts for the federal portion.

In the event federal action or inaction precludes conversion of authorized advance construction—interstate projects to federal funding, up to \$20,000,000 of advance construction—interstate bonds authorized by RCW 47.10.790 may be sold to partially fund the federal appropriation. In that case, the department may transfer such amount from the federal appropriation to the state appropriation in this section, without a modification in the total appropriation.

Sec. 8. Section 17, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY CONSTRUCTION—PROGRAM C

Motor Vehicle Fund Appropriation—State	\$	((137,000,000))	
			<u>143,000,000</u>
Motor Vehicle Fund Appropriation—Local	\$	1,000,000	
Total Appropriation	\$	((138,000,000))	<u>144,000,000</u>

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.

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 \$((65,000,000)) 73,000,000: 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.

\$((4,000,000)) 10,000,000 of the motor vehicle fund—state appropriation or so much thereof as is necessary is provided for preconstruction activities on new projects to be selected by the transportation commission. Funding of these activities shall be derived in the following manner: \$4,000,000 shall be funded from underexpenditures in motor vehicle fund—state appropriations in the 1983–1985 biennium ((to the extent they become available)) and \$6,000,000 shall be funded with the proceeds from the sale of bonds authorized in RCW 47.10.801(1)(a): 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.

Selection of category "C" projects for construction must be within projected available future funding and shall be in order of priority established by chapter 47.05 RCW unless reported in advance to the legislative transportation committee.

Sec. 9. Section 18, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—CONSTRUCTION MANAGEMENT AND SUPPORT—PROGRAM D

Motor Vehicle Fund Appropriation	\$	((28,583,000))
		<u>28,883,000</u>

The appropriation in this section is provided for the improvement and construction of buildings and other highway plant construction, for management and support of the highway construction programs, and for administrative support necessary to support cities and counties in obtaining federal aid.

\$2,000,000 of the motor vehicle fund—state appropriation, or so much thereof as may be required, is provided to fund the study required by Senate Concurrent Resolution No. 130 adopted by the 1983 legislature and provided for under RCW 46.68.110 and 46.68.120 of city, county, and state highway needs in relation to current statutory distributions of motor vehicle fuel taxes, other state and local highway revenue sources, and alternatives for financing long-term highway needs, and for other related studies.

Sec. 10. Section 19, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AERONAUTICS—PROGRAM F

General Fund—Aeronautics Account Appropriation—State	\$	((1,270,000))
		<u>1,670,000</u>
General Fund—Aeronautics Account Appropriation—Federal	\$	((91,000))
		<u>391,000</u>
Total Appropriation	\$	((1,361,000))
		<u>2,061,000</u>

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)~~ 150,000 for transfer to the motor vehicle fund as the first 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.

\$100,000 of the general fund—aeronautics account—state appropriation is contingent on the enactment of Senate Bill No. 4615, amending chapter 82.36 RCW.

Sec. 11. Section 20, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—
SEARCH AND RESCUE—PROGRAM F
General Fund—Search and Rescue Account

Appropriation	\$	110,000
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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.

Sec. 12. Section 21, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGH-
WAY MAINTENANCE AND OPERATIONS—PROGRAM M

Motor Vehicle Fund Appropriation	\$	(+174,195,000)
		<u>177,495,000</u>

The appropriation in this section is for the maintenance and operations of state highways, maintenance and operations of highway plants, and associated management and support. The appropriation includes \$300,000 to be used solely for increased maintenance and other operational activities designed to accommodate additional highway traffic and visitors to the state enroute to the 1986 World Exposition.

Sec. 13. Section 25, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PLAN-
NING, RESEARCH, AND PUBLIC TRANSPORTATION—PRO-
GRAM T

(1) For public transportation and rail programs:

General Fund Appropriation—State	\$	536,000
General Fund Appropriation—Federal	\$	4,664,000
General Fund Appropriation—Local	\$	190,000

(2) For planning and research:

Motor Vehicle Fund Appropriation—State	\$	3,438,000
Motor Vehicle Fund Appropriation—Feder- al	\$	12,619,000

Total Public Transportation and Planning Appropriation	\$ 21,447,000
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The appropriations in this section are provided for the management and support of the public transportation and planning division, urban mass transportation administration programs, for rail programs, for studies which support local public transportation programs, for highway planning and research by the department of transportation, and for research and studies approved by the department of transportation.

The department of transportation may transfer up to \$3,600,000 from the motor vehicle fund—federal appropriation to the motor vehicle fund—state appropriation if federal funds are not available to fully fund the motor vehicle fund—federal appropriation in this section.

Sec. 14. Section 27, chapter 460, Laws of 1985 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM W

Motor Vehicle Fund—Puget Sound Reserve Account Appropriation	\$ 3,958,000
Motor Vehicle Fund—Puget Sound Ferry Operations Account Appropriation	\$ ((46,400,000))
	<u>49,290,000</u>
Motor Vehicle Fund—Puget Sound Capital Construction Account Appropriation— State	\$ ((56,300,000))
	<u>51,700,000</u>
<u>Motor Vehicle Fund Appropriation—State</u>	<u>\$ 1,140,000</u>
Motor Vehicle Fund—Puget Sound Capital Construction Account Appropriation— Federal	\$ ((7,300,000))
	<u>2,000,000</u>
Total Appropriation	\$ ((13,958,000))
	<u>108,088,000</u>

The appropriations in this section are provided for the management and support of the marine transportation division of the department of transportation and for the operation, maintenance, and capital improvements of the Washington state ferry system. The appropriations are subject to the following conditions and limitations:

(1) The Puget Sound reserve account appropriation is provided to carry out RCW 47.60.420.

(2) The Puget Sound ferry operations account appropriation is provided for the operation and maintenance of the Washington state ferries, supplementing revenues available from the Washington state ferry system. The Puget Sound ferry operations account appropriation includes up to

~~\$(+4,500,000)~~ 16,385,000 transferred from the Puget Sound capital construction account in accordance with RCW 47.60.505. To the extent that revenue collections exceed that amount assumed in this act the transfer authority authorized in this subsection shall be reduced by a like amount. If the elimination of the sales tax on fuel consumed by the marine division is not enacted by July 1, 1986, then the transfer authority authorized in this subsection shall be increased by \$1,005,000.

(3) The Puget Sound capital construction account appropriation is 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 appropriation of state funds from the Puget Sound capital construction account contains \$20,000,000 of the proceeds from the sale of bonds authorized by RCW 47.60.560: PROVIDED, That the transportation commission in consultation with the legislative transportation committee may authorize the use of current revenues available to the Puget Sound capital construction account in lieu of bond proceeds for any part of the state appropriation.

(4) It is the intent of the legislature that the Puget Sound capital construction account appropriation is provided to carry out the projects presented to the transportation committees of the senate and house of representatives. The department of transportation shall consult with the legislative transportation committee prior to revising the programming of these projects or adding new projects. The department of transportation shall implement the terminal projects as delineated in 1986 Supplemental Budget Request for Marine Division Capital Construction Program (dated January 16, 1986) as presented to the joint house and senate transportation committees in accordance with state procurement regulations. Should the commission determine it is not feasible to refurbish the ferry "Rhododendron", and with the approval of the legislative transportation committee, the capital appropriation of \$2,500,000 provided for that purpose may be used to purchase a passenger-only vessel, provided that the marine division shall make application for reimbursement from the federal urban mass transportation administration (UMTA) for the cost of the initial vessel and any subsequent vessel purchase.

(5) Savings realized in marine operations as of the end of the fiscal period shall be placed into reserve status and no expenditure shall be made from that reserve without consulting with the legislative transportation committee and obtaining the approval of the office of financial management pursuant to RCW 43.88.110.

(6) ~~((The results of the passenger-only ferry study using leased vessels shall be reported to the legislative transportation committee during the 1986 regular session of the legislature.))~~ Prior to the implementation of any passenger-only project, the department of transportation shall request approval

from the legislative transportation committee. If the project is not implemented, then \$560,000 of the moneys appropriated in this section for that purpose shall not be expended for any other purpose.

(7) The traditional and customary ferry transportation service supported by these appropriations shall receive priority in the implementation of all directives contained in this section. It is the intent of the legislature that the motor vehicle fund appropriation—state of \$1,140,000 contained in this section shall be expended exclusively for the support of costs associated with EXPO '86 services. Any additional costs associated with the EXPO '86 services shall be funded by fare revenue generated from EXPO '86 traffic. The marine division shall provide the legislative transportation committee with a monthly financial report concerning the status of the EXPO '86 services.

(8) Pursuant to the limitations authorized in RCW 47.64.180(1), for the fiscal year ending June 30, 1986, none of the Puget Sound ferry operations account appropriation, the Puget Sound capital construction account appropriations, or moneys in the ferry system, 1963, revolving fund may be expended to effect an increase in the base salaries for ferry employees, as ferry employee is defined in RCW 47.64.011(5), or to effect an increase in insurance benefits for any ferry employee, except as may be required by state or federal law.

(9) Pursuant to the limitations authorized in RCW 47.64.180(1), for the fiscal year ending June 30, 1987, no more than \$1,135,000 of the Puget Sound ferry operations account appropriation, the Puget Sound capital construction account appropriations, or moneys in the ferry system, 1963, revolving fund may be expended to effect an increase in the base salaries for ferry employees or to effect an increase in insurance benefits for ferry employees. The amount determined for base salary increases shall be reduced by the amount by which the ferry system's contribution for employees' and dependents' insurance and health care plans exceeds that provided for other state agencies, as specified in RCW 47.64.270.

(10) After all possible internal management economies have been achieved, if an operating budget deficit still exists, the transportation commission is authorized to request authority from the legislative transportation committee to effect an interfund loan from the motor vehicle fund to the Puget Sound ferry operations account for some or all of the deficit as authorized by the legislative transportation committee: PROVIDED, That any amount loaned to the Puget Sound ferry operations account shall be repaid to the motor vehicle fund from ferry system operating revenues collected in the 1987-89 biennium.

NEW SECTION. Sec. 15. The transportation commission shall provide a detailed analysis of feasible alternatives that will achieve a long-range balance between funding requirements of the marine division's operating and capital programs and funding sources. The commission also shall

identify the alternative that it believes should be implemented and the rationale for its choice. The analysis and the commission's recommended alternative shall be submitted to the legislative transportation committee and the office of financial management no later than September 1, 1986.

If the commission's recommendation includes changes in the funding sources for the marine division, it shall provide an assessment of the impact such changes will have on other state-funded transportation programs.

Sec. 16. Section 43.10.100, chapter 8, Laws of 1965 amended by section 42, chapter 75, Laws of 1977 and RCW 43.10.100 are each amended to read as follows:

The attorney general, by February 1st of each year, shall annually prepare and report to the governor and the legislature a concise statement, in layman's terms, of all matters pertaining to his official duties, making such suggestions for lessening the public expenses and promoting frugality in the public offices as he deems expedient and proper. The attorney general shall include in his report 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 therefor; 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.

NEW SECTION. Sec. 17. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 11, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 4, 1986.

Filed in Office of Secretary of State April 4, 1986.

CHAPTER 314

[Engrossed Substitute House Bill No. 573]

REAL PROPERTY LIENS—DISPUTES—SUPPLIES FOR PUBLIC
CONSTRUCTION PROJECTS

AN ACT Relating to claims arising from improvements upon real property; amending RCW 4.16.160, 4.16.310, and 4.16.300; adding a new section to chapter 60.04 RCW; and adding a new section to chapter 60.28 RCW.

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

***Sec. 1. Section 2, chapter 43, Laws of 1955 and RCW 4.16.160 are each amended to read as follows:**

The limitations prescribed in this chapter shall apply to actions brought in the name or for the benefit of any county or other municipality or quasi-municipality of the state, in the same manner as to actions brought by private parties: PROVIDED, That, except as provided in RCW 4.16.310, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim of right predicated upon the lapse of time shall ever be asserted against the state: AND FURTHER PROVIDED, That no previously existing statute of limitations shall be interposed as a defense to any action brought in the name or for the benefit of the state, although such statute may have run and become fully operative as a defense prior to February 27, 1903, nor shall any cause of action against the state be predicated upon such a statute.

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

***Sec. 2. Section 2, chapter 75, Laws of 1967 and RCW 4.16.310 are each amended to read as follows:**

All claims or causes of action as set forth in RCW 4.16.300 shall accrue, and the applicable statute of limitation shall begin to run only during the period within six years after substantial completion of construction, or during the period within six years after the termination of the services enumerated in RCW 4.16.300, whichever is later. The phrase "substantial completion of construction" shall mean the state of completion reached when an improvement upon real property may be used or occupied for its intended use. Any cause of action which has not accrued within six years after such substantial completion of construction, or within six years after such termination of services, whichever is later, shall be barred: PROVIDED, That this limitation shall not be asserted as a defense by any owner, tenant or other person in possession and control of the improvement at the time such cause of action accrues. The limitations prescribed in this section apply to all claims or causes of action as set forth in RCW 4.16.300 brought in the name or for the benefit of the state which are made or commenced after the effective date of this 1986 act.

*Sec. 2 was vetoed, see message at end of chapter.

**Sec. 3. Section 1, chapter 75, Laws of 1967 and RCW 4.16.300 are each amended to read as follows:*

RCW 4.16.300 through 4.16.320 shall apply to all claims or causes of action of any kind against any person, arising from such person having constructed, altered or repaired any improvement upon real property, or having performed or furnished any design, planning, surveying, architectural or construction or engineering services, or supervision or observation of construction, or administration of construction contracts for any construction, alteration or repair of any improvement upon real property. This section is intended to benefit only those persons referenced herein and shall not apply to claims or causes of action against manufacturers.

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

NEW SECTION. Sec. 4. A new section is added to chapter 60.04 RCW to read as follows:

Any owner of real property subject to a recorded claim of lien under RCW 60.04.060, or the contractor or subcontractor who disputes the correctness or validity of the claim of lien may record, either before or after the commencement of an action to enforce the claim of lien, in the office of the county recorder or auditor in the county where the claim of lien was recorded, a bond issued by an insurance company authorized to issue surety bonds in the state, that is acceptable to the lien claimant and contains a description of the claim of lien and real property involved, and in an amount equal to the greater of five thousand dollars or two and one-half times the amount of the claim of lien if it is twenty thousand dollars or less, and in an amount equal to the greater of thirty thousand dollars or two times the amount of claim of lien if it is in excess of twenty thousand dollars. If the claim of lien affects more than one parcel of real property and is segregated to each parcel, the bond may be segregated the same as in the claim of lien. A separate bond shall be required for each claim of lien. The condition of the bond shall be to guarantee the payment of the judgment entered in any action to recover the amount claimed in a claim of lien, or on the claim asserted in the claim of lien. The effect of recording a bond shall be to release the real property described in the claim of lien from the lien and any action brought to recover the amount claimed. Unless otherwise prohibited by law, if no action is filed to recover on a claim of lien within the time specified in RCW 60.04.100 the surety shall be discharged from liability under the bond. If such an action is timely filed, then on payment of any judgment entered in the action or on payment of the full amount of the bond to the holder of the judgment, whichever is less, the surety shall be discharged from liability under the bond.

NEW SECTION. Sec. 5. A new section is added to chapter 60.28 RCW to read as follows:

Every person, firm, or corporation furnishing materials, supplies, or equipment to be used in the construction, performance, carrying on, prosecution, or doing of any work for the state, or any county, city, town, district, municipality, or other public body, shall give to the contractor of the work a notice in writing, which notice shall cover the material, supplies, or equipment furnished or leased during the sixty days preceding the giving of such notice as well as all subsequent materials, supplies, or equipment furnished or leased, stating in substance and effect that such person, firm, or corporation is and/or has furnished materials and supplies, or equipment for use thereon, with the name of the subcontractor ordering the same, and that a lien against the retained percentage may be claimed for all materials and supplies, or equipment furnished by such person, firm, or corporation for use thereon, which notice shall be given by (1) mailing the same by registered or certified mail in an envelope addressed to the contractor, or (2) by serving the same personally upon the contractor or the contractor's representative and obtaining evidence of such service in the form of a receipt or other acknowledgement signed by the contractor or the contractor's representative, and no suit or action shall be maintained in any court against the retained percentage to recover for such material, supplies, or equipment or any part thereof unless the provisions of this section have been complied with.

Passed the House March 9, 1986.

Passed the Senate March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

Note: Governors explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1, 2 and 3, Substitute House Bill No. 573, entitled:

"AN ACT Relating to claims arising from improvements upon real property."

Sections 1, 2 and 3 are identical to sections 701, 702 and 703 of Substitute Senate Bill No. 4630. Since I am signing Substitute Senate Bill No. 4630, sections 1, 2 and 3 of this bill are duplicative.

With the exception of sections 1, 2 and 3, Substitute House Bill No. 573 is approved."

CHAPTER 315

[House Bill No. 1633]

TIMBER EXCISE TAX—PUBLIC TIMBER—PRIVATE PURCHASERS— HARVESTER

AN ACT Relating to taxation of timber harvested by public entities; amending RCW 84.33.035, 84.33.073, 82.04.050, and 82.04.100; reenacting and amending RCW 82.04.330; adding a new section to chapter 82.04 RCW; adding new sections to chapter 84.33 RCW; and declaring an emergency.

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

Sec. 1. Section 1, chapter 204, Laws of 1984 and RCW 84.33.035 are each amended to read as follows:

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

(1) "Composite property tax rate" for a county means the total amount of property taxes levied upon forest lands by all taxing districts in the county other than the state, divided by the total assessed value of all forest land in the county.

(2) "Forest land" means forest land which is classified or designated forest land under this chapter.

(3) "Harvested" means the time when in the ordinary course of business the quantity of timber by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department of revenue.

(4) "Harvester" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use; PROVIDED, That whenever the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use, the harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in such timber. The term "harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(5) "Stumpage value of timber" means the appropriate stumpage value shown on tables prepared by the department of revenue under RCW 84.33-.091, provided that for timber harvested from public land and sold under a competitive bidding process, stumpage value shall mean that actual amount paid to the seller in cash or other consideration. Whenever payment for the stumpage includes considerations other than cash, the value shall be the fair market value of the other consideration, provided that if the other consideration is permanent roads, the value of the roads shall be the appraised value as appraised by the seller.

(6) "Timber" means forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170 includes Christmas trees.

(7) "Timber assessed value" for a county means a value, calculated by the department of revenue before October 1 of each year, equal to the total

stumpage value of timber harvested from privately owned land in the county during the most recent four calendar quarters for which the information is available multiplied by a ratio. The numerator of the ratio is the rate of tax imposed by the county under RCW 84.33.051 for the year of the calculation. The denominator of the ratio is the composite property tax rate for the county for taxes due in the year of the calculation, expressed as a percentage of assessed value.

(8) "Timber assessed value" for a taxing district means the timber assessed value for the county multiplied by a ratio. The numerator of the ratio is the total assessed value of forest land in the taxing district. The denominator is the total assessed value of forest land in the county. As used in this section, "assessed value of forest land" means the assessed value of forest land for taxes due in the year the timber assessed value for the county is calculated.

Sec. 2. Section 1, chapter 146, Laws of 1981 as amended by section 3, chapter 4, Laws of 1982 2nd ex. sess. and RCW 84.33.073 are each amended to read as follows:

As used in RCW 84.33.073 and 84.33.074, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Small harvester" means every person who from his own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding five hundred thousand board feet in a calendar quarter and not exceeding one million board feet in a calendar year: PROVIDED, That whenever the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use, not exceeding these amounts, the small harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in such timber. ((H)) "Small harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester, and it does not include harvesters of forest products classified by the department of revenue as special forest products including Christmas trees, posts, shake boards and bolts, and shingle blocks.

(2) "Timber" means forest trees, standing or down, on privately or publicly owned land.

(3) "Harvesting and marketing costs" means only those costs directly associated with harvesting the timber from the land and delivering it to the buyer and may include the costs of disposing of logging residues but it does not include any other costs which are not directly and exclusively related to

harvesting and marketing of the timber such as costs of permanent roads or costs of reforesting the land following harvest.

NEW SECTION. Sec. 3. A new section is added to chapter 84.33 RCW to read as follows:

(1) If no later than thirty days after removal of classification or designation the owner applies for classification under RCW 84.34.020 (2) or (3), then the classified or designated forest land shall not be considered removed from classification or designation for purposes of the compensating tax under RCW 84.33.120 or 84.33.140 until the application for current use classification under RCW 84.34.030 is denied or the property is removed from designation under RCW 84.34.108. Upon removal from designation under RCW 84.34.108, the amount of compensating tax due under this chapter shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land when removed from designation under RCW 84.34.108 multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number equal to:

(i) The number of years the land was classified or designated under this chapter, if the total number of years the land was classified or designated under this chapter and classified under chapter 84.34 RCW is less than ten; or

(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was classified or designated under this chapter and classified under chapter 84.34 RCW is at least ten.

(2) Nothing in this section authorizes the continued classification or designation under this chapter or defers or reduces the compensating tax imposed upon forest land not transferred to classification under subsection (1) of this section which does not meet the necessary definitions of forest land under RCW 84.33.100. Nothing in this section affects the additional tax imposed under RCW 84.34.108.

***NEW SECTION.** Sec. 4. A new section is added to chapter 82.04 RCW, to be codified within RCW 82.04.020 through 82.04.212, to read as follows:

"Plantation Christmas trees" means Christmas trees which are exempt from the timber excise tax under RCW 84.33.170.

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

***Sec. 5. Section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 25, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.050 are each amended to read as follows:**

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale, or (d) purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), or (d) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsections (2) and (7) and RCW 82.04.290.

(2) The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and also excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in

respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting; (d) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; (e) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), and (e) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

(3) The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities: (a) Amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

(4) The term shall also include the renting or leasing of tangible personal property to consumers.

(5) The term shall also include the providing of telephone service, as defined in RCW 82.04.065, to consumers.

(6) The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic

including mass transportation vehicles of any kind, nor shall it include sales of feed, seed, seedlings, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including plantation Christmas trees and milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects, but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

(7) The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority.

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

*Sec. 6. Section 82.04.100, chapter 15, Laws of 1961 as last amended by section 2, chapter 148, Laws of 1985 and RCW 82.04.100 are each amended to read as follows:

"Extractor" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees other than plantation Christmas trees, or other natural products, or takes fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others ((or) persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession, or persons who fell, cut, or take plantation Christmas trees from the person's own land or from land in which the person has a present right of possession.

*Sec. 6 was vetoed, see message at end of chapter.

*Sec. 7. Section 82.04.330, chapter 15, Laws of 1961 as last amended by section 1, chapter 148, Laws of 1985 and by section 10, chapter 414, Laws of 1985 and RCW 82.04.330 are each reenacted and amended to read as follows:

This chapter shall not apply to any person in respect to the business of growing or producing for sale upon the person's own lands or upon land in which the person has a present right of possession, any agricultural or horticultural produce or crop, or of raising upon the person's own lands or upon land in which the person has a present right of possession, any plantation Christmas tree or any animal, bird, fish, or insect, or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom, or in respect to the sale of such products at wholesale by such grower, producer, or raiser thereof. This exemption shall not apply to any person selling such products at retail or using such products as ingredients in a manufacturing process, nor to the sale of any animal or substance obtained therefrom by a person in connection with the person's business of operating a stockyard or a slaughter or packing house, nor to any person in respect to the business of taking, cultivating, or raising ((Christmas trees or)) timber, nor to any association of persons whatever, whether mutual, cooperative or otherwise, engaging in any business activity with respect to which tax liability is imposed under the provisions of this chapter. As used in this section, "fish" means fish which are cultivated or raised entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession.

*Sec. 7 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 84.33 RCW to read as follows:

The excise tax imposed under this chapter applies to forest trees harvested after the effective date of this 1986 act from lands sold to any governmental agency by warranty deed or contract where the seller reserved to itself the right to take all merchantable timber for a specific period of years, or in perpetuity, and to forest trees harvested after the effective date of this 1986 act that any governmental agency, by quit claim deed, as partial consideration for payment of the purchase price, conveyed for a specific period of years, or in perpetuity, all forest trees, standing, growing, or lying on the described land, to the taxpayer, regardless of the date on which the contract was entered.

NEW SECTION. Sec. 9. Section 8 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 12, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to sections 4, 5, 6, and 7 of House Bill No. 1633, entitled:

"AN ACT Relating to taxation of timber harvested by public entities."

These sections of House Bill No. 1633 would give Christmas tree growers the tax status of farmers. Specifically, it would exempt Christmas tree plantations from the timber tax and exempt them from sales tax on seedlings, fertilizer, and other spray materials used in producing Christmas trees, as well as exempting them from the B & O tax.

In vetoing these sections, it is important to recognize that Washington already has a tax designed especially for the business of growing trees. Christmas trees are not food, and they are not used to build housing; they are luxury consumption items priced so that anyone can afford them.

The proponents of this measure argue that their tax status is a detriment to their competitive position in the interstate market, a market in which transportation costs are a dominant factor. While I believe that it is important for Washington to reexamine its tax structure in order to mitigate barriers to business development and to enhance the interstate and international competitiveness of our industries, I do not believe that tax policies are effective in offsetting primary business factors such as transportation costs. In addition, the competitive market for Christmas trees is not comparable to the "price taker" market faced by producers of agricultural products, in which suppliers of perishable products have greater difficulty in passing on any portion of their tax burden. Furthermore, I do not believe it is appropriate to extend a preferential tax status designed for producers of food to the producers of non-food luxuries simply for the purpose of improving a competitive market position, especially when this measure shows no promise of producing additional jobs for Washington.

With the exception of sections 4 through 7, House Bill No. 1633 is approved."

CHAPTER 316

[Engrossed Substitute Senate Bill No. 4418]

IRRIGATION

AN ACT Relating to irrigation; creating new sections; 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) The wise management and utilization of the state's water resources is in the best interests of the citizens of the state of Washington;

(b) Long-term planning of water uses and water supply projects is necessary to assure our state's water resources will be managed and utilized with the vision to maximize long-term benefits to assure that long-term opportunities are not permanently lost based on short-term conditions;

(c) Future allocations of water shall be considered in conjunction with an analysis of competing demands for water resources;

(d) It is the policy of the state to join with federal agencies and others in developing economically feasible, environmentally sound, and water conservation oriented facilities; and

(e) The state is participating in studies now being conducted by the federal government through the bureau of reclamation in the Yakima river and Columbia river basins for the purpose of determining plans for the proper development and utilization of the state's water resources under sound financing arrangements.

(2) It is the intent of the legislature that additional information be developed on future agricultural needs for water.

***NEW SECTION. Sec. 2.** (1) The director of the department of agriculture shall organize a committee including but not limited to irrigation and dry land farmers, irrigation district representatives, agricultural economists, electric utility representatives, fisheries group representatives, and electric ratepayer representatives to conduct a study on water supply availability in the Columbia Basin area. The study shall include the following:

(a) An examination of the potential for expansion of irrigated land in the state;

(b) An evaluation of the alternatives that are available to renew water rights reserved to maintain future options to expand the production of food;

(c) A review of areas in the state in which available water and irrigable land both exist that have a reasonable potential for food production to meet growing demand for food in coming decades;

(d) An analysis of the impact of additional irrigation on the competitive position and profitability of existing agriculture;

(e) A review of the impact of additional irrigation on electricity costs in the Pacific northwest and alternatives for mitigating electrical cost impact;

(f) An analysis of options that facilitate water supply availability for irrigation through conservation and other methods;

(g) A supply and demand analysis of major crops produced in the state including an investigation of alternative crops for those that are in surplus;

(h) A review of available analyses of jobs and economic activity derived from future expansion of other major energy consuming industries and major water uses and their related dependent industries as compared to the jobs and economic activity of future expansion of irrigated agriculture and its related dependent industries. Consistent economic assumptions and methodology shall be used in developing this comparative analysis; and

(i) A review of the bureau of reclamation draft environmental impact statement and other relevant federal reports. The committee organized by the director of agriculture under this section shall not create new data which duplicates the data being developed by the environmental impact statement process.

(2) *The director of the department of agriculture shall submit a preliminary report by January 1, 1987, and a final report by January 1, 1988, to the governor and the legislature.*

(3) Persons appointed to the committee shall be entitled to reimbursement by the department of agriculture under RCW 43.03.050 and 43.03-.060 for travel expenses incurred in the performance of their duties.

***Sec. 2 was partially vetoed, see message at end of chapter.**

NEW SECTION. Sec. 3. The director of the department of ecology shall:

(1) Continue to participate with the federal government in its studies of the Yakima enhancement project and of options for future development of the second half of the Columbia Basin project;

(2) Vigorously represent the state's interest in said studies, particularly as they relate to protection of existing water rights and resolution of conflicts in the adjudication of the Yakima river within the framework of state water rights law and propose means of resolving the conflict that minimize adverse effects on the various existing uses;

(3) As a cooperative federal and nonfederal effort, work with members of the congressional delegation to identify and advance for federal authorization elements of the Yakima enhancement project which: Have general public support and acceptable cost-sharing arrangements, meet study objectives, and otherwise have potential for early implementation; and

(4) In developing acceptable cost-sharing arrangements, request federal recognition of state credit for expenditures of moneys from Washington state utility ratepayers.

NEW SECTION. Sec. 4. (1) The department of ecology is authorized to transfer funds currently available from Referendum 38, up to one hundred fifty thousand dollars, to the department of agriculture, together with necessary full-time equivalent staff years, for direct, indirect, and contractual purposes to conduct studies required under section 2 of this act.

(2) The department of ecology is authorized to expend up to two hundred fifty thousand dollars of currently available Referendum 38 funds, together with necessary full-time equivalent staff years, for direct, indirect, and contractual purposes to accomplish the activities required under section 3 of this act.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 2(2), Substitute Senate Bill No. 4418, entitled:

"AN ACT Relating to irrigation."

Substitute Senate Bill No. 4418 is an important piece of legislation that maintains the state's strong commitment to the timely completion of the Yakima irrigation enhancement project. The work on the Yakima project should proceed as called for in the bill.

The legislation also restates the Department of Agriculture's legitimate role as an advocate of water resources projects needed to help meet future agricultural water needs, and seeks to preserve the state's option to participate in the second half of a feasible Columbia Basin irrigation project.

Section 2 requires the Department of Agriculture to establish a committee to study water supply availability in the Columbia Basin area and make a preliminary report to the Governor and Legislature by January 1, 1987, with the final report by January 1, 1988.

The primary objective of the study is to develop a formal process to enable the state to maintain its option to participate in a feasible Columbia Basin project.

The Federal Bureau of Reclamation is in the initial stages of preparing its required Environmental Impact Statement (EIS) on the second half of the Columbia Basin project. The draft EIS is scheduled to be available for review and comment in December 1986, and will require a state response. The study timetable called for in section 2(2) could place the state in the untenable position of having to respond to the EIS and indicate a preferred project alternative as much as one full year in advance of completion of its own study.

Therefore, I am vetoing section 2(2) and asking the Director of the Department of Agriculture to develop a time schedule for activities, including dates for preliminary and final reports, and to inform the Legislature of the timetable. The timetable for the Columbia Basin water availability study should be consistent with the schedule for the Bureau of Reclamation's Environmental Impact Statement. That schedule calls for the draft EIS to be available for review in December 1986.

The committee specifically called for in section 2(1) would contain a number of key interest groups vital to the Columbia Basin project decision-making process. Other equally important interests—local government, recognized environmental organizations and Indian tribes—are absent. I am asking the Director of the Department of Agriculture to review the composition of the committee and to make certain that the entire range of interests and organizations necessary to make timely, objective decisions on appropriate participation in the Columbia Basin Project serve on the committee. The committee shall establish and maintain communications with the Governor and the Legislature.

A number of the issues identified for study in section 2(1) have already been at least partially addressed in past studies or ongoing assessments conducted by the state, the Bureau of Reclamation, the Bonneville Power Administration or the Northwest Power Planning Council. Section 2(1)(i) instructs the committee not to duplicate data being developed by the Bureau of Reclamation in its Environmental Impact Statement process. I am further directing the Department to ensure that the committee extends the mandate to avoid duplication, including duplication of previous or ongoing studies, to all elements of the study, not just those items enumerated in section 2(1)(i).

With the exception of section 2(2), Substitute Senate Bill 4418 is approved."

CHAPTER 317

[Reengrossed Substitute Senate Bill No. 3182]

RETIREMENT—REENTER STATE SERVICE—REINSTATEMENT OF WITHDRAWN CONTRIBUTIONS PROVIDED FOR

AN ACT Relating to retirement from public service; amending RCW 41.32.500, 41.40.150, 41.40.120, 44.44.040 and 41.04.330; adding a new section to chapter 41.40 RCW; creating a new section; making appropriations; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that in the past public employees and teachers who had terminated employment, withdrawn their retirement contributions, and subsequently returned to public employment or teaching either did not receive proper notification of the procedure to reinstate their withdrawn contributions or they did not fully understand the limitation on such reinstatement. In 1973, the legislature recognized this fact and provided an extraordinary reinstatement period for such employees. Further in 1983, the legislature established clear notification procedures for the proper notification of the reinstatement policy for all such returning employees. Therefore, it is the intent of this 1985 act to provide one last opportunity for reinstatement of withdrawn contributions to those who may have not been properly informed or misunderstood the reinstatement procedure.

Sec. 2. Section 50, chapter 80, Laws of 1947 as last amended by section 1, chapter 233, Laws of 1983 and RCW 41.32.500 are each amended to read as follows:

(1) Membership in the retirement system is terminated when a member retires for service or disability, dies, withdraws his accumulated contributions or does not establish service credit with the retirement system for five consecutive years; however, a member may retain membership in the teachers' retirement system by leaving his accumulated contributions in the teachers' retirement fund under one of the following conditions:

(a) If he is eligible for retirement;

(b) If he is a member of another public retirement system in the state of Washington by reason of change in employment and has arranged to have membership extended during the period of such employment;

(c) If he is not eligible for retirement but has established five or more years of Washington membership service credit.

The prior service certificate becomes void when a member dies, withdraws his accumulated contributions or does not establish service credit with the retirement system for five consecutive years, and any prior administrative interpretation of the board of trustees, consistent with this section, is hereby ratified, affirmed and approved.

(2) Any member, except an elected official, who reentered service and who failed to restore withdrawn contributions, shall now have from the effective date of this 1986 act through June 30, 1987, to restore the contributions, with interest as determined by the director.

(3) Within the ninety days following the employee's resumption of employment, the employer shall notify the department of the resumption and the department shall then return to the employer a statement of the potential service credit to be restored, the amount of funds required for restoration, and the date when the restoration must be accomplished. The employee shall be given a copy of the statement and shall sign a copy of the statement which signed copy shall be placed in the employee's personnel file.

Sec. 3. Section 16, chapter 274, Laws of 1947 as last amended by section 2, chapter 233, Laws of 1983 and RCW 41.40.150 are each amended to read as follows:

Should any member die, or should the individual separate or be separated from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.185 or 41.40.190, the individual shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions with interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment, be returned to the status, either as an original member or new member which the member held at time of separation.

(3) Any member, except an elected official, who reentered service and who failed to restore withdrawn contributions, shall now have from the effective date of this 1986 act through June 30, 1987, to restore the contributions, with interest as determined by the director.

(4) Within the ninety days following the employee's resumption of employment, the employer shall notify the department of the resumption and the department shall then return to the employer a statement of the potential service credit to be restored, the amount of funds required for restoration, and the date when the restoration must be accomplished. The employee shall be given a copy of the statement and shall sign a copy of the statement which signed copy shall be placed in the employee's personnel file.

(5) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

(6) (a) The recipient of a retirement allowance who is employed in an eligible position other than under RCW 41.40.120(12) shall be considered to have terminated his or her retirement status and shall immediately become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended during the period of eligible employment and the individual shall

make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed;

(b) The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.120(3) shall be considered to have terminated his or her retirement status and shall become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: PROVIDED, That where any such right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: AND PROVIDED FURTHER, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.120(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(7) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of the Washington public employees' retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five(-); however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits commencing at age sixty-five: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

NEW SECTION. Sec. 4. A new section is added to chapter 41.40 RCW to read as follows:

Those currently employed members who were eligible to recover service earned prior to July 1, 1953, under a retirement system authorized pursuant to RCW 28B.10.400 through 28B.10.430, but who failed to do so, shall have until June 30, 1987, to pay the appropriate employee and employer contributions plus interest, as determined by the director of retirement systems, for such service which was not so recovered.

Sec. 5. Section 13, chapter 274, Laws of 1947 as last amended by section 13, chapter 184, Laws of 1984 and RCW 41.40.120 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an

agreement whereby members can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: **AND PROVIDED FURTHER**, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: **AND PROVIDED FURTHER**, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of enrollment under the relief and compensation provisions or the pension provisions of the volunteer firemen's relief and pension fund under chapter 41.24 RCW;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor control board as agency vendors;

(11) Employees of a labor guild, association, or organization: **PROVIDED**, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Persons hired in eligible positions on a temporary basis for a period not to exceed six months: **PROVIDED**, That if such employees are employed for more than six months in an eligible position they shall become members of the system;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: **PROVIDED**, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon

the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under the first proviso of this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from transferring all of its current employees to the retirement system established under this chapter. Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only from the date of application;

(17) The city manager or chief administrative officer of a city or town who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of the effective date of this 1986 act shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions.

Sec. 6. Section 22, chapter 105, Laws of 1975-'76 2nd ex. sess. and RCW 44.44.040 are each amended to read as follows:

The state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law. Reimbursement for such services shall be made to the state actuary pursuant to the provisions of RCW 39-.34.130 as now or hereafter amended.

(2) Advise the legislature and the governor regarding the benefit provisions, funding policies, and investment policies of the department of retirement systems.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which ~~((shall))~~ briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

NEW SECTION. Sec. 7. There is created a sixteen-member joint committee on public retirement during the 1986 interim as follows:

(1) The president of the senate shall appoint eight members, with four members to be appointed from each caucus;

(2) The speaker of the house of representatives shall appoint eight members, with four members to be appointed from each caucus.

NEW SECTION. Sec. 8. Until June 1, 1987, the director of retirement systems is authorized to retroactively suspend any administrative action initiated on or after January 1, 1986, to recover pension overpayments from retirees who have returned to covered employment.

This section shall not be codified and shall be effective only until May 31, 1987.

*NEW SECTION. Sec. 9. (a) There is hereby appropriated for the biennium ending June 30, 1987, one hundred six thousand dollars from the retirement systems expense fund to the department of retirement systems to carry out the administrative purposes of this act.

(b) There is hereby appropriated for the biennium ending June 30, 1987, two million eight hundred thousand dollars from the general fund to the department of retirement systems for the increased contributions required of

the state by this act. Of this amount, one million two hundred thousand dollars shall be deposited in the public employees' retirement fund and one million six hundred thousand dollars shall be deposited in the teachers' retirement fund.

*Sec. 9 was partially vetoed, see message at end of chapter.

Sec. 10. Section 12, chapter 205, Laws of 1979 ex. sess. and RCW 41-.04.330 are each amended to read as follows:

The provisions of this 1979 amendatory act shall apply only to court decrees of dissolution or legal separation and court-approved property settlement agreements regardless of whether entered before or after ((May 25, 1979)) the effective date of this 1986 act, and only to those persons who have actually retired.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 9(b), Reengrossed Substitute Senate Bill No. 3182, entitled:

"AN ACT Relating to retirement from public service."

Section 9(b) appropriates \$2,800,000 for contribution to the pension trust fund for this biennium. The fiscal impact for the remaining provisions of this measure is \$1,200,000 and therefore the appropriated amount is excessive.

The Department of Retirement Systems, in consultation with the Office of the State Actuary, will revise the employer contribution rate for the Public Employees and Teachers Systems so as to assure the appropriate cost of this legislation is collected by the system during this biennium.

With the exception of section 9(b), Reengrossed Substitute Senate Bill No. 3182 is approved."

CHAPTER 318

[Senate Bill No. 3397]

WILDLIFE—ILLEGAL POSSESSION—BAIL

AN ACT Relating to game and game fish; amending RCW 77.21.070; providing an effective date; and declaring an emergency.

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

*Sec. 1. Section 3, chapter 8, Laws of 1983 1st ex. sess. as amended by section 336, chapter 258, Laws of 1984 and RCW 77.21.070 are each amended to read as follows:

(1) Whenever a person is convicted of illegal (~~hunting or~~) possession of wildlife listed in this subsection, the convicting court shall order the person to reimburse the state in the following amounts for each animal killed or possessed:

- (a) Moose, antelope, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission \$1,000
- (b) Elk, deer, black bear, and cougar \$500

(2) For the purpose of this section, the term "convicted" includes a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, and the payment of a fine. No court may establish bail for illegal possession of wildlife listed in subsection (1) in an amount less than the bail established for hunting during the closed season plus the reimbursement value of wildlife set forth in subsection (1).

(3) If two or more persons are convicted of illegally (~~hunting or~~) possessing wildlife listed in this section, the reimbursement amount shall be imposed upon them jointly and separately.

(4) The reimbursement amount provided in this section shall be imposed in addition to and regardless of any penalty, including fines, or costs, that is provided for violating any provision of Title 77 RCW. The reimbursement required by this section shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. Nothing in this section may be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(5) A defaulted reimbursement or any installment payment thereof may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including vacation of a deferral of sentencing or of a suspension of sentence.

(6) All moneys derived from reimbursements required under this section shall be remitted to the credit of the state game fund.

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

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

government and its existing public institutions, and shall take effect June 30, 1986.

Passed the Senate March 12, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 1(6), Senate Bill No. 3397, entitled:

"AN ACT Relating to game and game fish."

Section 1(6) of this bill would direct to the Game Fund, rather than to the Public Safety and Education fund, reimbursements to the state for the value of game animals taken illegally.

These reimbursements were directed to the Public Safety and Education Fund by the 1984 Court Reform Act, which did away with a very cumbersome system of separate accounting for numerous small special purpose court collections. The unified and simplified system now in place is vastly superior to its predecessor. The change contemplated by this subsection would be a step backward toward the old system. Moreover, the change is unnecessary because the Game Department receives appropriations from the Public Safety and Education Fund.

For this reason, I have vetoed section 1(6) of Senate Bill No. 3397."

CHAPTER 319

[Engrossed Senate Bill No. 4705]

COMMUNICATING WITH A MINOR FOR IMMORAL PURPOSES

AN ACT Relating to communications with minors for immoral purposes; amending RCW 9.68A.090, 9.68A.050, and 9.68A.110; and prescribing penalties.

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

***Sec. 1. Section 4, chapter 262, Laws of 1984 and RCW 9.68A.050 are each amended to read as follows:**

A person who:

(1) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct; or

(2) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct; or

(3) Knowingly exposes a minor to visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct
is guilty of a class C felony punishable under chapter 9A.20 RCW.

((3)) (4) As used in this section, "minor" means a person under ((sixteen)) eighteen years of age.

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

Sec. 2. Section 8, chapter 262, Laws of 1984 and RCW 9.68A.090 are each amended to read as follows:

(1) A person who communicates with a minor for immoral purposes is guilty of a gross misdemeanor, unless that person has previously been convicted under this section or of a felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of any other felony sexual offense in this or any other state, in which case the person is guilty of a class C felony punishable under chapter 9A.20 RCW.

(2) As used in this section, "minor" means a person under ~~((sixteen))~~ eighteen years of age.

Sec. 3. Section 10, chapter 262, Laws of 1984 and RCW 9.68A.110 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. This chapter does not apply to individual case treatment in a recognized medical facility or individual case treatment by a psychiatrist or psychologist licensed under Title 18 RCW, or to lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, or 9.68A.100, it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant reasonably believed the alleged victim to be at least eighteen years of age based on declarations by the alleged victim.

(4) In a prosecution under RCW 9.68A.050(~~(;)~~) or 9.68A.060(~~(; or 9.68A.090)~~), it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant reasonably believed the alleged victim to be at least sixteen years of age based on declarations by the alleged victim.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim.

Passed the Senate March 11, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 1, Engrossed Senate Bill No. 4705, entitled:

"AN ACT Relating to communications with minors for immoral purposes."

Minors should be protected from exposure to sexually explicit material. Unfortunately, the language used in section 1 of this measure is both broad and unclear, and poses serious problems for libraries. Library staff would have to begin policing minors who use their facilities, and this is not an appropriate role. Unfortunately, provisions which would have exempted libraries and their staff from having to enforce this provision were deleted from the bill.

Selection of books for public libraries has historically been the responsibility of local library boards; I am satisfied this system continues to provide adequate safeguards for communities. Additionally, there are materials used by professional counselors and caseworkers in working with sexually abused children which may be suspect under this section.

Also, the definition of "minor" in section 1 is changed to age eighteen, which puts it in conflict with RCW 9.68A.110 — the defense section to RCW 9.68A.050 — which still refers to the age of a minor as sixteen. This will create serious problems and make the law unenforceable.

With the exception of section 1, Engrossed Senate Bill No. 4705 is approved."

CHAPTER 320

[Engrossed Senate Bill No. 4620]

MOTOR VEHICLE FUELS—RETAIL TRADING PRACTICES

AN ACT Relating to retail trading practices in the sale of motor vehicle fuels; adding a new chapter to Title 19 RCW; creating a new section; prescribing penalties; making an appropriation; providing an effective date; and declaring an emergency.

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

*NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communication media published in connection with an offer or sale of a franchise.

(2) "Affiliate" means any person, firm, or corporation who controls or is controlled by any motor fuel refiner-supplier, and includes any subsidiary or affiliated corporation in which the motor fuel refiner-supplier or its shareholders, officers, agents, or employees hold or control more than twenty-five percent of the voting shares.

(3) "Community interest" means a continuing financial interest between the motor fuel refiner-supplier and motor fuel retailer in the operation of the franchise business.

(4) "**Marketing area**" means **an area five miles or less in any direction from a motor fuel retailer selling products of any trademark of the motor fuel refiner-supplier.**

(5) "Motor fuel" means gasoline or diesel fuel of a type distributed for use in self-propelled motor vehicles and includes gasohol.

(6) "Motor fuel franchise" means any oral or written contract, either expressed or implied, between a motor fuel refiner-supplier and motor fuel retailer under which the motor fuel retailer is supplied motor fuel for resale to the public under a trademark owned or controlled by the motor fuel refiner-supplier or for sale on commission or for a fee to the public, or any agreements between a motor fuel refiner-supplier and motor fuel retailer under which the retailer is permitted to occupy premises owned, leased, or controlled by the refiner-supplier for the purpose of engaging in the retail sale of motor fuel under a trademark owned or controlled by the motor fuel refiner-supplier supplied by the motor fuel refiner-supplier.

(7) "Motor fuel refiner-supplier" means any person, firm, or corporation, including any affiliate of the person, firm, or corporation, engaged in the refining of crude oil into petroleum who supplies motor fuel for sale, consignment, or distribution through retail outlets **and has an operable refinery capacity of three hundred twenty-five thousand barrels a day or more as reported to the federal department of energy.**

(8) "Motor fuel retailer" means a person, firm, or corporation that resells motor fuel entirely at one or more retail motor fuel outlets pursuant to a motor fuel franchise entered into with a refiner-supplier.

(9) "Offer or offer to sell" includes every attempt or offer to dispose of or solicitation of an offer to buy a franchise or an interest in a franchise.

(10) "Person" means a natural person, corporation, partnership, trust, or other entity and in the case of an entity, it shall include any other entity which has a majority interest in such an entity or effectively controls such other entity as well as the individual officers, directors, and other persons in act of control of the activities of each such entity.

(11) "Price" means the net purchase price, after adjustment for commission, brokerage, rebate, discount, services or facilities furnished, or other such adjustment.

(12) "Publish" means publicly to issue or circulate by newspaper, mail, radio, or television or otherwise to disseminate to the public.

(13) "Retail motor fuel outlet" means any location where motor fuel is distributed for purposes other than resale.

(14) "Sale or sell" includes every contract of sale, contract to sell, or disposition of a franchise.

(15) "Trademark" means any trademark, trade name, service mark, or other identifying symbol or name.

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

NEW SECTION. Sec. 2. *It is unlawful for any motor fuel refiner-supplier to discriminate in price between motor fuel retailers in the same marketing area for purchases of motor fuel of like grade and quality, where the effect of the discrimination may be substantially to injure, destroy, or prevent competition with any motor fuel retailer who receives the benefit of the discrimination, or with the customers of either motor fuel retailer. Nothing in this section prevents differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the fuel is sold to motor fuel retailers. Upon proof being made of discrimination under this section, the burden of rebutting the prima facie case thus made by showing justification is upon the refiner-supplier. A refiner-supplier may show justification by establishing that a differential price was only made in good faith to meet an equally low price of a competitor if the price was also offered to all other motor fuel retailers under any trademark of the refiner-supplier within the same marketing area as the motor fuel retailer receiving the lower price.*

*Sec. 2 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 3. Notwithstanding the terms of any motor fuel franchise, a motor fuel refiner-supplier shall not absolutely prohibit or unreasonably withhold its consent to any sale, assignment, or other transfer of the motor fuel franchise by a motor fuel retailer to a third party without fairly compensating the motor fuel retailer for the fair market value, at the time of expiration of the franchise, of the motor fuel retailer's inventory, supplies, equipment, and furnishings purchased from the motor fuel refiner-supplier, and good will, exclusive of personalized materials which have no value to the motor fuel refiner-supplier, and inventory, supplies, equipment, and furnishings not reasonably required in the conduct of the franchise business. A motor fuel refiner-supplier may offset against amounts owed to a motor fuel retailer under this section any amounts owed by the motor fuel retailer to the motor fuel refiner-supplier.

NEW SECTION. Sec. 4. Notwithstanding the terms of any motor fuel franchise, no motor fuel refiner-supplier may prohibit or prevent the sale, assignment, or other transfer of the motor fuel franchise to a corporation in which the motor fuel retailer has and maintains a controlling interest if the motor fuel retailer offers in writing personally to guarantee the performance of the obligations under the motor fuel franchise.

NEW SECTION. Sec. 5. Notwithstanding the terms of any motor fuel franchise, the interest of a motor fuel retailer under such an agreement shall be considered personal property and shall devolve on the death of the motor fuel retailer to a designated successor in interest of the retailer, limited to

the retailer's spouse, adult child, or adult stepchild or, if no successor in interest is designated, to the retailer's spouse, if any. The designation shall be made, witnessed in writing by at least two persons, and delivered to the motor fuel refiner-supplier during the term of the franchise. The designation may be revised at any time by the motor fuel retailer and shall be substantially in the following form:

"I (motor fuel retailer name) at the service station located at, in the City of, Washington, designate as my successor in interest under section 4 of this act and as my alternate successor if the originally designated successor is unable or unwilling so to act.

I so specify this day of, 19..."

The motor fuel refiner-supplier shall assist the designated successor in interest temporarily in the day-to-day operation of the service station to insure continued operation of the service station.

NEW SECTION. Sec. 6. Notwithstanding the terms of any motor fuel franchise, the motor fuel retailer shall be given the right of first refusal to purchase the real estate and/or improvements owned by the refiner-supplier at the franchise location, and at least thirty days' advance notice within which to exercise this right, prior to any sale thereof to any other buyer.

NEW SECTION. Sec. 7. Notwithstanding the terms of any motor fuel franchise, no motor fuel refiner-supplier may:

- (1) Require any motor fuel retailer to meet mandatory minimum sales volume requirements for fuel or other products unless the refiner-supplier proves that its price to the motor fuel retailer has been sufficiently low to enable the motor fuel retailer reasonably to meet the mandatory minimum;
- (2) Alter, or require the motor fuel retailer to consent to the alteration of, any provision of the motor fuel franchise during its effective term without mutual consent of the motor fuel retailer;
- (3) Interfere with any motor fuel retailer's right to assistance of counsel on any matter or to join or be active in any trade association; and
- (4) Set or compel, directly or indirectly, the retail price at which the motor fuel retailer sells motor fuel or other products to the public.

NEW SECTION. Sec. 8. It is unlawful for any person in connection with the offer, sale, or purchase of any motor fuel franchise directly or indirectly:

- (1) To sell or offer to sell a motor fuel franchise in this state by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made in light of the circumstances under which they were made not misleading.
- (2) To employ any device, scheme, or artifice to defraud.

(3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

NEW SECTION. Sec. 9. Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the motor fuel refiner-supplier and the motor fuel retailers:

(1) The parties shall deal with each other in good faith.

(2) For the purposes of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and a violation of this chapter for any person to:

(a) Require a motor fuel retailer to purchase or lease goods or services of the motor fuel refiner-supplier or from approved sources of supply unless and to the extent that the motor fuel refiner-supplier satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition: PROVIDED, That this provision shall not apply to the initial inventory of the motor fuel franchise. In determining whether a requirement to purchase or lease goods or services constitutes an unfair or deceptive act or practice or an unfair method of competition the courts shall be guided by the decisions of the courts of the United States interpreting and applying the anti-trust laws of the United States.

(b) Discriminate between motor fuel retailers in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the motor fuel refiner-supplier satisfies the burden of proving that any classification of or discrimination between motor fuel retailers is reasonable, is based on motor fuel franchises granted at materially different times and such discrimination is reasonably related to such difference in time or on other proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary.

(c) Sell, rent, or offer to sell to a motor fuel retailer any product or service for more than a fair and reasonable price.

(d) Require motor fuel retailer to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter.

NEW SECTION. Sec. 10. (1) Any person who sells or offers to sell a motor fuel franchise in violation of this chapter shall be liable to the motor fuel retailer or motor fuel refiner-supplier who may sue at law or in equity for damages caused thereby for rescission or other relief as the court may deem appropriate. In the case of a violation of section 8 of this act rescission is not available to the plaintiff if the defendant proves that the plaintiff knew the facts concerning the untruth or omission or that the defendant exercised reasonable care and did not know or if he had exercised reasonable care would not have known of the untruth or omission.

(2) The suit authorized under subsection (1) of this section may be brought to recover the actual damages sustained by the plaintiff: PROVIDED, That the prevailing party may in the discretion of the court recover the costs of said action including a reasonable attorneys' fee.

(3) Any person who becomes liable to make payments under this section may recover contributions as in cases of contracts from any persons who, if sued separately, would have been liable to make the same payment.

(4) A final judgment, order, or decree heretofore or hereafter rendered against a person in any civil, criminal, or administrative proceedings under the United States anti-trust laws, under the Federal Trade Commission Act, or this chapter shall be regarded as evidence against such persons in any action brought by any party against such person under subsection (1) of this section as to all matters which said judgment or decree would be an estoppel between the parties thereto.

NEW SECTION. Sec. 11. The pendency of any civil, criminal, or administrative proceedings against a person brought by the federal or Washington state governments or any of their agencies under the anti-trust laws, the Federal Trade Commission Act, or any federal or state act related to anti-trust laws or to franchising, or under this chapter shall toll the limitation of this action if the action is then instituted within one year after the final judgment or order in such proceedings: PROVIDED, That said limitation of actions shall in any case toll the law so long as there is actual concealment on the part of the person.

NEW SECTION. Sec. 12. Any motor fuel retailer who is injured in his or her business by the commission of any act prohibited by this chapter, or any motor fuel retailer injured because of his or her refusal to accede to a proposal for an arrangement which, if consummated, would be in violation of this chapter may bring a civil action in superior court to enjoin further violations, to recover the actual damages sustained by him or her, or both, together with the costs of the suit, including reasonable attorney's fees.

NEW SECTION. Sec. 13. (1) The attorney general may bring an action in the name of the state against any person to restrain and prevent the doing of any act herein prohibited or declared to be unlawful. The prevailing party may in the discretion of the court recover the costs of such action including a reasonable attorneys' fee.

(2) Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

NEW SECTION. Sec. 14. In any proceeding under this chapter, the burden of proving an exception or an exemption from definition is upon the person claiming it. Any condition, stipulation or provision purporting to bind any person acquiring a motor fuel franchise at the time of entering

into a motor fuel franchise or other agreement to waive compliance with any provision of this chapter or any rule or order hereunder is void.

NEW SECTION. Sec. 15. The provisions of this chapter apply to any motor fuel franchise or contract entered into or renewed on or after the effective date of this act between a motor fuel refiner-supplier and a motor fuel retailer.

****NEW SECTION. Sec. 16. The Administrative Procedure Act, chapter 34.04 RCW, shall wherever applicable herein govern the rights, remedies, and procedures respecting the administration of this chapter.***

****Sec. 16 was vetoed, see message at end of chapter.***

NEW SECTION. Sec. 17. It is the intent of the legislature that this chapter be interpreted consistent with chapter 19.100 RCW.

NEW SECTION. Sec. 18. This chapter shall be liberally construed to effectuate its beneficial purposes.

NEW SECTION. Sec. 19. This chapter shall be known as the "Gasoline Dealer Bill of Rights Act."

NEW SECTION. Sec. 20. The Washington state attorney general shall conduct a study to determine whether motor fuel refiner-suppliers are injuring competition from motor fuel retailers, by charging retailers that sell products under their trademark, prices for motor fuel which equal or exceed the prices charged for motor fuel in the same geographic market to retail customers at retail motor fuel outlets operated by company personnel, a subsidiary company, or commissioned or contract agents. The attorney general shall report his findings and recommendations to the legislature by December 1, 1986. Periodic reports shall be submitted to the legislative transportation committee. For the purposes of this study, the attorney general is authorized to use all of the civil investigative demand powers enumerated in RCW 19.86.110, subject to the procedures and requirements specified in RCW 19.86.110: PROVIDED, That disclosure of documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or the contents thereof, to members of the legislature and legislative staff shall not require a court order unless the documentary material, answers to written interrogatories, or transcripts of oral testimony are identified at the time they are furnished as containing trade secrets. When seeking a court order allowing disclosure of material containing trade secrets, the attorney general shall give reasonable notice of such proceeding to the party furnishing the material.

NEW SECTION. Sec. 21. To carry out this act, the sum of forty-nine thousand dollars, or as much thereof as may be necessary, is appropriated to the office of attorney general from the motor vehicle fund for the biennium ending June 30, 1987.

NEW SECTION. Sec. 22. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. Sections 1 through 19 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 24. (1) Sections 20 and 21 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) Sections 1 through 19, 22 and 23 of this act shall take effect June 30, 1986.

Passed the Senate March 9, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to sections 1(4), 1(7) in part, 2 and 16, Engrossed Senate Bill 4620, entitled:

"AN ACT Relating to retail trading practices in the sale of motor vehicle fuels."

This legislation creates a separate franchise law that regulates the business relationship between motor fuel refiner-suppliers and motor fuel retailers.

The Legislature has devoted substantial time and effort to examining allegations that the major oil companies are employing predatory pricing and other unfair practices against the independent lessee-dealers to whom they supply gasoline and other products. These allegations are occurring during a period when the nature of retail gasoline marketing is undergoing significant changes. Preserving a market niche for independent lessee-dealers in this changing environment has been a major concern of the Legislature. Accordingly, Senate Resolution 1985-92 created a Select Committee to investigate these allegations and to submit its findings and recommendations to the Legislature. This legislation is largely a product of the Select Committee's work.

The Select Committee's findings are reflected in the major components of Engrossed Senate Bill No. 4620: (1) recognition and protection of lessee-dealers' franchise rights, (2) prohibitions against certain unfair trade practices and provision of legal remedies to address violations, (3) authorization for a study by the Attorney General to determine whether motor fuel refiner-suppliers are employing unfair price discrimination between their owner-operated retail outlets and their lessee-dealers in the wholesale price charged for fuel, and (4) prohibitions against motor fuel refiner-suppliers unfairly discriminating in the wholesale price of fuel charged to their motor-fuel retailers in the same five-mile marketing area.

I have carefully considered all of these elements, and I support essentially all but those provisions relating to refiner-supplier price discrimination against lessee-dealers in the same marketing area, as contained in section 2 of the legislation. While I can appreciate this as a thoughtful attempt to establish a way to address alleged unfair pricing practices, I am not convinced that section 2 is a workable means for ensuring a competitive gasoline market that protects the lessee-dealers or benefits the consumers.

Therefore, I am vetoing section 2, as well as section 1(4) which defines the "marketing area" applicable to section 2, and a portion of section 1(7) that exempts certain "motor fuel refiner-suppliers" from the jurisdiction of this legislation.

In addition, since no administrative remedies are provided in this legislation, I am also vetoing section 16 which is an unneeded reference to the Administrative Procedure Act.

I will be awaiting the results of the Attorney General's investigation of alleged unfair wholesale price discrimination employed by refiner-suppliers between their owner-operated stations and their independent lessee-dealers. This effort is to be completed by December 1, 1986. The civil investigative demand powers of the Attorney General should be effective in evaluating these alleged practices, which were the genesis of the Legislature's concern but which they were unable to document. Until these results are available, the legislation as approved should provide substantial protection for the investments and franchise rights of lessee-dealers.

With the exception of sections 1(4), 1(7) in part, 2 and 16, Engrossed Senate Bill 4620 is approved."

CHAPTER 321

[Engrossed Substitute Senate Bill No. 4627]

CIGARETTE WHOLESALERS AND RETAILERS

AN ACT Relating to cigarette wholesalers and retailers; amending RCW 19.91.010; adding a new section to chapter 19.91 RCW; adding new sections to chapter 82.24 RCW; creating a new section; repealing RCW 19.91.911, 19.91.010, 19.91.020, 19.91.030, 19.91.040, 19.91.050, 19.91.060, 19.91.070, 19.91.080, 19.91.090, 19.91.100, 19.91.110, 19.91.120, 19.91.130, 19.91.140, 19.91.150, 19.91.160, 19.91.170, 19.91.180, 19.91.190, 19.91.900, and 19.91.910; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. It is the policy of the legislature to encourage competition by reducing the government's role in price setting. It is the legislature's intent to leave price setting mainly to the forces of the marketplace. In the field of cigarette sales, the legislature finds that the goal of open competition should be balanced against the public policy disallowing use of cigarette sales as loss leaders. To balance these public policies, it is the intent of the legislature to repeal the unfair cigarette sales below cost act and to declare the use of cigarettes as loss leaders as an unfair practice under the consumer protection act.

*Sec. 2. Section 3, chapter 2, Laws of 1983 as amended by section 1, chapter 173, Laws of 1984 and RCW 19.91.010 are each amended to read as follows:

When used in this chapter, the following words and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, municipal corporation, or other political subdivision of this state, trust, receiver, trustee, fiduciary and conservator.

(2) "Wholesaler" includes any person who:

(a) Purchases cigarettes directly from the manufacturer, or

(b) Purchases cigarettes from any other person who purchases from or through the manufacturer, for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only, or

(c) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Nothing contained herein shall prevent a person from qualifying in different capacities as both a "wholesaler" and "retailer" under the applicable provisions of this chapter.

(3) "Retailer" means and includes any person who operates a store, stand, booth, concession, or vending machine for the purpose of making sales of cigarettes at retail.

(4) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(5) "Sale" means any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatsoever.

(6) "Sell at wholesale", "sale at wholesale" and "wholesale" sales mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

(7) "Sell at retail", "sale at retail" and "retail sales" mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

(8) "Basic cost of cigarettes" means the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower, to which shall be added the full face value of any stamps which may be required by any cigarette tax act of this state and by ordinance of any municipality thereof, now in effect or hereafter enacted, if not already included by the manufacturer in his list price. (~~The disposition of the manufacturers' cash discount is at the discretion of the wholesaler. Any retailer or wholesaler who actually receives and sells cigarettes with trade or cash discounts shall execute a sworn affidavit and obtain a sworn affidavit from the person granting the discount, whether a manufacturer or wholesaler, which shows: (a) Amount or rate of the discount, (b) date the discount was granted, (c) names of the persons granting and receiving the discount, and (d) whether the discount is for cash or trade purposes. Sworn~~

~~affidavits under this section are maintained for five years and available for inspection by the department of revenue's request. The department of revenue may impose a civil penalty not to exceed two hundred fifty dollars for each failure to maintain affidavits under this section.~~

~~Nothing in this section may be construed to require any retailer to obtain affidavits from retail purchasers of cigarettes.))~~

(9) (a) The term "cost to the wholesaler" means the "basic cost of cigarettes" to the wholesaler plus the "cost of doing business by the wholesaler" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said wholesalers "cost of doing business" bears to said wholesalers dollar volume for all products sold by the wholesaler per annum, and said "cost of doing business by the wholesaler" shall be evidenced and determined by the standards and methods of accounting regularly employed by him for the purpose of federal income tax reporting for the total operation of his establishment in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor costs (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling cost, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising, expressed as a percentage and applied to the "basic cost of cigarettes". Any fractional part of a cent amounting to one-tenth of one cent or more in cost to the wholesaler per carton of ten packages of cigarettes shall be rounded off to the next higher cent.

(b) For the purposes of this chapter the "cost of doing business" may not be computed using a percentage less than the overall percentage shown in subsection (9)(a) of this section or in the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the wholesaler making the sale, the "cost of doing business by the wholesaler" shall be presumed to be ~~((four percent))~~ the percentage of the "basic cost of cigarettes" to the wholesaler specified in (c) of this subsection, plus cartage to the retail outlet, if performed or paid for by the wholesaler, which cartage cost, in the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost, shall be deemed to be one-half of one percent of the "basic cost of cigarettes" to the wholesaler.

(c) For the purposes of (b) of this subsection, the percentage of the basic cost of cigarettes to the wholesaler shall be:

(i) Four percent until July 1, 1987;

(ii) Three and one-half percent from July 1, 1987, until July 1, 1988;

(iii) Three percent from July 1, 1988, until July 1, 1989;

(iv) Two and one-half percent from July 1, 1989, until July 1, 1990;

and

(v) Two percent from July 1, 1990, until July 1, 1991.

(10) (a) The term "cost to the retailer" means the "basic cost of cigarettes" to the retailer plus the "cost of doing business by the retailer" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said retailers "cost of doing business" bears to said retailers dollar volume per annum, and said "cost of doing business by the retailer" shall be evidenced and determined by the standards and methods of accounting regularly employed by him for the purpose of federal income tax reporting for the total operation of his establishment in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising, expressed as a percentage and applied to the "basic cost of cigarettes": PROVIDED, That any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, discounts ordinarily allowed upon purchases by a wholesaler shall, in determining "cost to the retailer", pursuant to this subdivision, add the "cost of doing business by the wholesaler," as defined in subdivision (9) of this section, to the "basic cost of cigarettes" to said retailer, as well as the "cost of doing business by the retailer". Any fractional part of a cent amounting to one-tenth of one cent or more in cost to the retailer per carton of ten packages of cigarettes shall be rounded off to the next higher cent.

(b) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the "cost of doing business by the retailer" shall be presumed to be ~~((twelve and five-tenths percent))~~ the percentage of the "basic cost of cigarettes" to the retailer specified in (d) of this subsection.

(c) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business, the "cost of doing business by the retailer", who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, shall be presumed to be ~~((twelve and five-tenths percent))~~ the percentage of the sum of the "basic cost of cigarettes" and the "cost of doing business by the wholesaler" specified in (d) of this subsection.

(d) For the purposes of (b) and (c) of this subsection, the percentage shall be:

(i) Eleven and one-half percent until July 1, 1987;

(ii) Ten and one-half percent from July 1, 1987, until July 1, 1988;

(iii) Nine and one-half percent from July 1, 1988, until July 1, 1989;

(iv) Eight and one-half percent from July 1, 1989, until July 1, 1990;

(v) Seven and one-half percent from July 1, 1990, until July 1, 1991.

(11) "Business day" means any day other than a Sunday or a legal holiday.

(12) "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.

*Sec. 2 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 3. Section 2, chapter 173, Laws of 1984 and RCW 19.91.911 are each repealed.

NEW SECTION. Sec. 4. No person may engage in or conduct the business of purchasing, selling, consigning, or distributing cigarettes in this state without a license under this chapter. A violation of this section is a misdemeanor.

NEW SECTION. Sec. 5. (1) The licenses issuable under this chapter are as follows:

- (a) A wholesaler's license.
- (b) A retailer's license.

(2) Application for the licenses shall be made through the master license system under chapter 19.02 RCW. The department of revenue shall adopt rules regarding the regulation of the licenses. The department of revenue may refrain from the issuance of any license under this chapter if the department has reasonable cause to believe that the applicant has wilfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the department has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. Each such license shall expire on the master license expiration date, and each such license shall be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the department of revenue made pursuant thereto.

NEW SECTION. Sec. 6. A fee of six hundred fifty dollars shall accompany each wholesaler's license application or license renewal application. If a wholesaler sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license with a license fee of one hundred fifteen dollars shall be required for each additional place of business. Each license, or certificate thereof, and such other evidence of license as the department of revenue requires, shall be exhibited in the place of business for which it is issued and in such manner as is prescribed for the display of a master license. The department of revenue shall require each licensed wholesaler to file with the department a bond in an

amount not less than one thousand dollars to guarantee the proper performance of the duties and the discharge of the liabilities under this chapter. The bond shall be executed by such licensed wholesaler as principal, and by a corporation approved by the department of revenue and authorized to engage in business as a surety company in this state, as surety. The bond shall run concurrently with the wholesaler's license.

NEW SECTION. Sec. 7. A fee of ten dollars shall accompany each retailer's license application or license renewal application. A fee of one additional dollar for each vending machine shall accompany each application or renewal for a license issued to a retail dealer operating a cigarette vending machine.

NEW SECTION. Sec. 8. Any person licensed only as a wholesaler, or as a retail dealer, shall not operate in any other capacity unless the additional appropriate license or licenses are first secured. A violation of this section is a misdemeanor.

NEW SECTION. Sec. 9. (1) The department of revenue shall enforce the provisions of this chapter. The department of revenue may adopt, amend, and repeal rules necessary to enforce and administer the provisions of this chapter. The department of revenue has full power and authority to revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee to comply with any of the provisions of this chapter.

(2) A license shall not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the department of revenue. The department of revenue, upon a finding by same, that the licensee has failed to comply with any provision of this chapter or any rule promulgated thereunder, shall, in the case of the first offender, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and, in the case of a second or plural offender, shall suspend the license or licenses for a period of not less than ninety consecutive business days nor more than twelve months, and, in the event the department of revenue finds the offender has been guilty of wilful and persistent violations, it may revoke the license or licenses.

(3) Any person whose license or licenses have been so revoked may apply to the department of revenue at the expiration of one year for a reinstatement of the license or licenses. The license or licenses may be reinstated by the department of revenue if it appears to the satisfaction of the department of revenue that the licensee will comply with the provisions of this chapter and the rules promulgated thereunder.

(4) A person whose license has been suspended or revoked shall not sell cigarettes or permit cigarettes to be sold during the period of such suspension or revocation on the premises occupied by the person or upon other

premises controlled by the person or others or in any other manner or form whatever.

(5) Any determination and order by the department of revenue, and any order of suspension or revocation by the department of revenue of the license or licenses, or refusal to reinstate a license or licenses after revocation shall be reviewable by an appeal to the superior court of Thurston county. The superior court shall review the order or ruling of the department of revenue and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the department of revenue.

NEW SECTION. Sec. 10. All fees and penalties received or collected by the department of revenue pursuant to this chapter shall be paid to the state treasurer, to be credited to the general fund.

NEW SECTION. Sec. 11. A cigarette wholesalers or retailers license issued by the department of licensing under RCW 19.91.130 in good standing on the effective date of this section constitutes a license under section 4 of this act.

NEW SECTION. Sec. 12. Sections 4 through 10 of this act are each added to chapter 82.24 RCW.

NEW SECTION. Sec. 13. A new section is added to chapter 19.91 RCW to read as follows:

No person licensed to sell cigarettes under chapter 82.24 RCW may sell cigarettes below the actual price paid. Violations of this section constitute unfair or deceptive acts or practices under the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 2, Laws of 1983, section 1, chapter 173, Laws of 1984, section 2 of this 1986 act and RCW 19.91.010;

(2) Section 2, chapter 286, Laws of 1957 and RCW 19.91.020;

(3) Section 3, chapter 286, Laws of 1957 and RCW 19.91.030;

(4) Section 4, chapter 286, Laws of 1957 and RCW 19.91.040;

(5) Section 5, chapter 286, Laws of 1957 and RCW 19.91.050;

(6) Section 6, chapter 286, Laws of 1957 and RCW 19.91.060;

(7) Section 7, chapter 286, Laws of 1957 and RCW 19.91.070;

(8) Section 8, chapter 286, Laws of 1957, section 13, chapter 278, Laws of 1975 1st ex. sess. and RCW 19.91.080;

(9) Section 9, chapter 286, Laws of 1957 and RCW 19.91.090;

(10) Section 10, chapter 286, Laws of 1957 and RCW 19.91.100;

(11) Section 11, chapter 286, Laws of 1957 and RCW 19.91.110;

(12) Section 12, chapter 286, Laws of 1957 and RCW 19.91.120;

(13) Section 13, chapter 286, Laws of 1957, section 14, chapter 278, Laws of 1975 1st ex. sess., section 35, chapter 182, Laws of 1982 and RCW 19.91.130;

(14) Section 4, chapter 2, Laws of 1983 and RCW 19.91.140;

(15) Section 5, chapter 2, Laws of 1983 and RCW 19.91.150;

(16) Section 16, chapter 286, Laws of 1957 and RCW 19.91.160;

(17) Section 17, chapter 286, Laws of 1957 and RCW 19.91.170;

(18) Section 18, chapter 286, Laws of 1957, section 17, chapter 278, Laws of 1975 1st ex. sess., section 4, chapter 16, Laws of 1982 1st ex. sess. and RCW 19.91.180;

(19) Section 19, chapter 286, Laws of 1957, section 1, chapter 172, Laws of 1959, section 2, chapter 107, Laws of 1979 and RCW 19.91.190;

(20) Section 20, chapter 286, Laws of 1957 and RCW 19.91.900; and

(21) Section 21, chapter 286, Laws of 1957, section 5, chapter 16, Laws of 1982 1st ex. sess. and RCW 19.91.910.

NEW SECTION. Sec. 15. Sections 1 and 4 through 14 of this act shall take effect on July 1, 1991.

Passed the Senate March 4, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 2(8), Substitute Senate Bill No. 4627, entitled:

"AN ACT Relating to cigarette wholesalers and retailers."

I strongly agree with the intent of Substitute Senate Bill No. 4627 to "increase competition by reducing government's role in price setting" of cigarettes. I believe that increased market competition benefits the consumer.

I also agree that the Unfair Cigarette Below Cost Act, the current law which is amended by this bill, should not be terminated in June 1986. Rather, I favor a phase-out of state cigarette price regulation as proposed in Substitute Senate Bill No. 4627, allowing the market to adjust to free market practices over a five-year period. State regulation would then terminate completely in 1991. This approach is consistent with the Legislative Budget Committee's conclusion in its mandated study of the Unfair Cigarette Below Cost Act, "that Chapter 19.91 RCW be extended in its current form and then be automatically phased out over a five-year period."

However, I'm concerned over a potential problem created by the bill's inconsistent treatment of cigarette manufacturers' discounts. Section 2(8) of the bill deletes the provision in current law which specifically authorizes wholesalers to pass cigarette manufacturers' cash discounts through to the retailer. Deleting this express authority granted to wholesalers in section 2(8) of the current law appears to create an ambiguity with regard to section 2(10) which is retained in current law by this bill. Section 2(10) specifies how the retailer shall account to the Department of Revenue for discounts received from cigarette wholesalers. The Department of Revenue would probably be required to rule on this ambiguity with the potential for litigation to resolve the issue.

As a policy matter, if wholesalers are not allowed to pass manufacturers' discounts to retailers, contrary to current law, the effect would be to increase the mandatory wholesale price of cigarettes. This situation would be entirely inconsistent with the intent of Substitute Senate Bill No. 4627, and the Legislative Budget Committee's recommendation, to deregulate state price controls.

In considering a veto of section 2(8), I recognize that the current law pertaining to the treatment of manufacturers' discounts does not have the same effect on all segments of the cigarette wholesaling industry. Nonetheless, the current law has been in effect since 1984, which has already provided a period for the industry to adjust to the discount provision. I believe that the interests of the consumer are best served by retaining the discount provisions of current law, and continuing the move towards market pricing for cigarettes. Therefore, I am vetoing section 2(8) of Substitute Senate Bill No. 4627, which restores the provisions of current law regarding manufacturers' discounts.

With the exception of section 2(8), Substitute Senate Bill No. 4627 has been approved.*

CHAPTER 322

[Reengrossed Substitute Senate Bill No. 4305]
BAIL BONDS

AN ACT Relating to bail bonds; amending RCW 10.19.090; and adding new sections to chapter 10.19 RCW.

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

***NEW SECTION. Sec. 1. A new section is added to chapter 10.19 RCW to read as follows:**

The surety on the appearance bond shall be released from liability when the case against the person is dismissed, the case is deferred, the person is acquitted, or the person is found guilty of the charges made the basis for the appearance bond.

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

*Sec. 2. Section 1, page 103, Laws of 1867 as last amended by section 1137, Code of 1881 and RCW 10.19.090 are each amended to read as follows:

In criminal cases where a recognizance for the appearance of any person, either as a witness or to appear and answer, shall have been taken and a default entered, the recognizance shall be declared forfeited by the court(;; and)). At the time of adjudging such forfeiture said court shall enter judgment against the principal and sureties named in such recognizance for the sum therein mentioned or an amount less than that stated in the bond if recommended by the prosecuting attorney and approved by the court or approved by the court on its own motion, and execution may issue thereon the same as upon other judgments. If the surety is not notified by the court in writing of the unexplained failure of the defendant to appear within thirty days of the date for appearance, then the forfeiture shall be null and void and the recognizance exonerated.

*Sec. 2 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 10.19 RCW to read as follows:

If a forfeiture has been entered against a person in a criminal case and the person is returned to custody or produced in court within twelve months from the forfeiture, then the full amount of the bond, less any and all costs determined by the court to have been incurred by law enforcement in transporting, locating, apprehending, or processing the return of the person to the jurisdiction of the court, shall be remitted to the surety if the surety was directly responsible for producing the person in court or directly responsible for apprehension of the person by law enforcement.

NEW SECTION. Sec. 4. A new section is added to chapter 10.19 RCW to read as follows:

The liability of the surety is limited to the amount of the bond when acting within the scope of the surety's duties in issuing the bond.

NEW SECTION. Sec. 5. A new section is added to chapter 10.19 RCW to read as follows:

The surety on the bond may return to custody a person in a criminal case under the surety's bond if the surrender is accompanied by a notice of forfeiture or a notarized affidavit specifying the reasons for the surrender. The surrender shall be made to the facility in which the person was originally held in custody or the county or city jail affiliated with the court issuing the warrant resulting in bail.

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 March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to sections 1 and 2 in part of Re-engrossed Substitute Senate Bill No. 4305, entitled:

"AN ACT Relating to bail bonds."

This bill makes a number of changes relating to the legal processes for providing bail and appearance bonds.

Section 1 of this bill would relieve sureties of the responsibility of insuring the appearance of bonded defendants through the entire court hearing process by releasing the sureties' liability at conviction. Sureties would no longer remain liable until the sentencing hearing. This section reverses an effective long-standing policy. This section would also require that the defendant obtain a new bond for the period of time between conviction and sentencing with a resultant additional costs. If the defendant did not or could not get a new bond, the county would have to house the defendant in jail. These changes are undesirable from the standpoint of both the

defendant and the county. Currently, the sureties can protect their interests by advising the court that a defendant will flee if found guilty and the bond should not be extended.

In section 2, I am vetoing the change proposed in the first sentence. The portion of section 2 that I am vetoing is the statement "or an amount less than that stated in the bond if recommended by the prosecuting attorney and approved by the court or approved by the court of its own motion." This change would allow a court to reduce the size of the forfeiture that must be made when the defendant fails to appear at court. Reducing the face value of the bond when the defendant fails to appear could undermine the incentive to bring defendants to justice, thereby weakening the criminal justice process.

For these reasons I have vetoed sections 1 and 2 in part of Re-engrossed Substitute Senate Bill No. 4305.

With the exception of the vetoed sections, Re-engrossed Substitute Senate Bill No. 4305 is approved."

CHAPTER 323

[Substitute Senate Bill No. 4525]

LEGISLATURE—RETENTION OF COUNSEL

AN ACT Relating to legal representation of the legislature; and adding a new section to chapter 43.10 RCW.

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

***NEW SECTION.** Sec. 1. A new section is added to chapter 43.10 RCW to read as follows:

The legislature may employ or retain counsel of its own choosing. However, the legislature shall notify the attorney general whenever it makes a decision to use the services of such counsel to represent it or any of its members in a particular judicial or administrative proceeding. With respect to any such proceeding where the legislature has not so notified the attorney general, the attorney general shall represent the legislature until so notified. For purposes of this section, "legislature" means the senate and house of representatives together, *either the senate or the house of representatives by itself, or any committee or entity of the legislative branch having the authority to select its own employees.* The major purposes of this section are to confirm and implement in statute law the constitutional power of the legislative branch to select its own counsel.

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

Passed the Senate March 8, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to part of section 1, Substitute Senate Bill No. 4525, entitled:

"AN ACT Relating to legal representation of the legislature."

The Attorney General presently represents all the branches of government in Washington State — the Legislature, the Executive and the Judiciary. This bill would allow the Legislature, the House, the Senate, or any committee or entity which hires its own staff to retain council of their own choosing to represent them in judicial and administrative proceedings. This is a substantial policy change.

The portion of section 1 which I am vetoing results in limiting the authority to retain counsel to the House of Representatives and the Senate together. This allows the Legislature as an institution to retain counsel. Without this limitation, I believe this authority to hire counsel would be too broad.

With the exception of the language in section 1 granting the House, the Senate and the committees or entities of the Legislature which hire their own staff the authority to retain separately legal counsel, I am signing Substitute Senate Bill No. 4525."

CHAPTER 324

[Substitute Senate Bill No. 4779]

AUCTIONS

AN ACT Relating to auctions; amending RCW 18.11.050, 18.11.060, 18.11.070, 18.11.100, 18.11.130, 18.11.140, 18.11.150, 18.11.160, 18.11.170, 18.11.180, 18.11.190, 18.11.200, and 18.11.210; adding new sections to chapter 18.11 RCW; creating a new section; repealing RCW 18.11.080, 18.11.090, 18.11.110, 18.11.120, 18.11.900, 18.11.910, 18.12.010, 18.12.020, 18.12.030, 18.12.040, 18.12.050, 18.12.060, 18.12.070, 18.12.080, 18.12.090, 18.12.100, 18.12.110, 18.12.120, 18.12.130, 18.12.140, 18.12.150, 18.12.160, 18.12.170, 18.12.180, 18.12.190, 18.12.200, and 18.12.900; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. This chapter may be known and cited as the "auctioneer registration act."

Sec. 2. Section 5, chapter 205, Laws of 1982 and RCW 18.11.050 are each amended to read as follows:

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

(1) "Auctioneer" means ~~((a person who sells goods or real estate at public auction for another on commission or for recompense, or one who conducts an auction for another on commission or for recompense))~~ an individual who calls bids at an auction.

(2) "Auction" ~~((or "sale at auction"))~~ means ~~((the verbal))~~ a transaction conducted by means of exchanges between an auctioneer and the members of his or her audience, constituting a series of invitations for offers for the ((sale)) purchase of goods or real property made by the auctioneer, offers by members of the audience, and the acceptance of the highest or most favorable offer ((by the auctioneer)).

(3) "Auction mart" means any fixed or established place designed, intended, or used for the conduct of auctions ~~((sales)).~~

(4) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity that sells or offers to sell goods

or real estate at auction or arranges, sponsors, or manages auctions. The term "auction company" shall exclude any sole proprietorship owned by an auctioneer licensed under this chapter whose gross annual sales do not exceed twenty-five thousand dollars.

(5) "Department" means the department of licensing.

~~((5))~~ (6) "Director" means the director of licensing.

~~((6))~~ (7) "Person" means an individual, ((or a partner or member of a firm,)) partnership, ((or)) association, ((or an officer, director, or employee of a)) corporation, or any other form of business enterprise.

~~((7))~~ (8) "Goods" mean wares, chattels, merchandise, or personal property owned or consigned, which may be lawfully kept or offered for sale((, including domestic animals and farm products)).

~~((8) "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.))~~

(9) "License" means state authority to operate as an auctioneer or auction company, which authority is conferred by issuance of a certificate of registration subject to annual renewal.

(10) "Licensee" means an auctioneer or auction company registered under this chapter.

Sec. 3. Section 2, chapter 205, Laws of 1982 and RCW 18.11.060 are each amended to read as follows:

This chapter shall be administered under chapter 43.24 RCW. The director shall set registration and renewal fees in accordance with RCW 43.24.086. If an auctioneer or auction company does not renew a license before it expires, the renewal shall be subject to payment of a penalty fee.

Sec. 4. Section 6, chapter 205, Laws of 1982 and RCW 18.11.070 are each amended to read as follows:

(1) ((On and after June 10, 1982,)) It is unlawful for any person to act as an auctioneer((-) or for an auction company to engage in ((the)) any business ((of an auctioneer)) in this state without a license. ((A person conducting an auction or sale at auction of equipment, livestock, household goods, personal property, or real estate individually owned by that person is not required to obtain a license.))

(2) This ((section)) chapter does not apply to ((an auction or a sale at auction)):

(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;

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

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

~~((d))~~ (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;

~~((e) Conducted by or under the auspices of national, state, or county livestock breeder or producer associations,))~~ or

(f) An auction of livestock or agricultural products which is conducted ((by a person licensed by the federal government; or

~~(g) Conducted by or under the auspices of the Future Farmers of America, the 4-H Club, or a county or district fair))~~ 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.

NEW SECTION. Sec. 5. Every individual, before acting as an auctioneer, shall obtain an auctioneer certificate of registration. To be licensed as an auctioneer, an individual shall meet all of the following requirements:

(1) Be at least eighteen years of age or sponsored by a licensed auctioneer.

(2) File with the department a completed application on a form prescribed by the director.

(3) Show that the proper tax registration certificate required by RCW 82.32.030 has been obtained from the department of revenue.

(4) Pay the auctioneer registration fee required under the agency rules adopted pursuant to this chapter.

(5) File with the department an auctioneer surety bond in the amount and form required by section 8 of this act and the agency rules adopted pursuant to this chapter.

(6) Have no disqualifications under RCW 18.11.160.

NEW SECTION. Sec. 6. Every person, before operating an auction company as defined in RCW 18.11.050, shall obtain an auction company certificate of registration. To be licensed as an auction company, a person shall meet all of the following requirements:

(1) File with the department a completed application on a form prescribed by the director.

(2) Sign a notarized statement included on the application form that all auctioneers hired by the auction company to do business in the state shall be properly registered under this chapter.

(3) Show that the proper tax registration certificate required by RCW 82.32.030 has been obtained from the department of revenue.

(4) Pay the auction company registration fee required under the agency rules adopted pursuant to this chapter.

(5) File with the department an auction company surety bond in the amount and form required by section 8 of this act and the agency rules adopted pursuant to this chapter.

(6) Have no disqualifications under RCW 18.11.160.

Sec. 7. Section 8, chapter 205, Laws of 1982 as amended by section 9, chapter 7, Laws of 1985 and RCW 18.11.100 are each amended to read as follows:

(1) ~~((A nonresident of this state may be licensed as an auctioneer upon complying with the rules of the department and this chapter))~~ Nonresident auctioneers and auction companies are required to comply with the provisions of this chapter and the rules of the department as a condition of conducting business in the state.

(2) ~~((The department may accept, in lieu of the recommendations and statements otherwise required to accompany the application for a license, an auctioneer's license issued to the applicant by the state of his or her domicile upon the payment by the applicant of the proper license fee and filing with the department of a certified copy of the license issued by the other state. This section shall only apply to licensed auctioneers of those states under the laws of which similar recognition and courtesies are extended to licensed auctioneers of this state.~~

~~((3))~~ The application of ~~((a person for))~~ a nonresident ~~((auctioneer's license))~~ under this chapter shall constitute the appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of a transaction or operation connected with or incidental to the business of an auctioneer or an auction company.

~~((4) Nonresidents must pay the issuance fee, annual renewal fees, and such other fees as prescribed by the director under RCW 43.24.086, and file the bond or proof of the establishment of a trust account as required by this chapter.))~~

NEW SECTION. Sec. 8. (1) Each auctioneer and each auction company shall as a condition to the granting and retention of a license have on file with the department an approved surety bond or other security in lieu of a bond. The bond or other security of an auctioneer shall be in the amount of five thousand dollars.

(2) The bond or other security of an auction company shall be in an amount not less than five thousand dollars and not more than twenty-five thousand dollars. The amount shall be based on the value of the goods and real estate sold at auctions conducted, supervised, arranged, sponsored, or managed by the auction company during the previous calendar year or, for a new auction company, the estimated value of the goods and real estate to be sold at auction during the current calendar year. The director shall establish by rule the procedures to be used for determining the amount of auction company bonds or other security.

(3) In lieu of a surety bond, an auctioneer or auction company may deposit with the department any of the following:

- (a) Savings accounts assigned to the director;
- (b) Certificates of deposit payable to the director;
- (c) Investment certificates or share accounts assigned to the director;

or

- (d) Any other security acceptable to the director.

All obligations and remedies relating to surety bonds authorized by this section shall apply to deposits filed with the director.

(4) Each bond shall comply with all of the following:

(a) Be executed by the person seeking the license as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state;

(c) Be conditioned on compliance with all provisions of this chapter and the agency rules adopted pursuant to this chapter, including payment of any administrative fines assessed against the licensee; and

(d) Remain in effect for one year after expiration, revocation, or suspension of the license.

(5) If any licensee fails or is alleged to have failed to comply with the provisions of this chapter or the agency rules adopted pursuant to this chapter, the director may hold a hearing in accordance with chapter 34.04 RCW, determine those persons who are proven claimants under the bond, and, if appropriate, distribute the bond proceeds to the proven claimants. The state or an injured person may also bring an action against the bond in superior court. The liability of the surety shall be only for actual damages and shall not exceed the amount of the bond.

(6) Damages that exceed the amount of the bond may be remedied by actions against the auctioneer or the auction company under section 25 of this act or other available remedies at law.

Sec. 9. Section 11, chapter 205, Laws of 1982 and RCW 18.11.130 are each amended to read as follows:

~~No ((person may act as auctioneer in the sale at public auction of any)) goods or real estate shall be sold at auction until ((he or she)) the auctioneer or auction company has entered into a written contract or agreement with the owner or consignor in duplicate which contains the terms and conditions upon which the licensee receives or accepts the property for sale at auction. ((Auction marts shall not be subject to this section:))~~

A person who violates this section shall be ~~((guilty of a misdemeanor and, upon conviction, shall be fined))~~ subject to an administrative fine in a sum not exceeding five hundred dollars for each violation.

Sec. 10. Section 12, chapter 205, Laws of 1982 and RCW 18.11.140 are each amended to read as follows:

Every person engaged in the business of selling goods or real estate at auction shall keep ~~((permanent))~~ written records for a period of three years available for inspection which indicate clearly the name and address of the owner ~~((, employer,))~~ or consignor of the goods or real estate, the terms of acceptance and sale, and a copy of the signed written contract ~~((of the auctioneer))~~ required by RCW 18.11.130. A person who violates this section shall be subject to an administrative fine in a sum not exceeding five hundred dollars for each violation.

Sec. 11. Section 13, chapter 205, Laws of 1982 and RCW 18.11.150 are each amended to read as follows:

All ~~((persons, partnerships, associations, and corporations licensed as auctioneers under this chapter))~~ auctioneers and auction companies shall ~~((be required to))~~ have their certificates of registration prominently displayed in their offices and the current renewal card or a facsimile available on demand at all ~~((sales at))~~ auctions conducted or supervised by the licensee.

~~((The violation of this section by any licensee shall be, in the discretion of the department sufficient cause for license suspension or revocation))~~ A person who violates this section shall be subject to an administrative fine in a sum not exceeding one hundred dollars for each violation.

Sec. 12. Section 14, chapter 205, Laws of 1982 and RCW 18.11.160 are each amended to read as follows:

(1) ~~((If an auctioneer's license is revoked by the department after June 10, 1982, no new license may be issued to the person unless he or she complies with this chapter.~~

(2) ~~After the revocation of any license, no new license may be issued to the same licensee within a period of at least one year from the date of the revocation nor at any time thereafter except in the sole discretion of the department.~~

~~((3))~~ No license ~~((may))~~ shall be issued by the department to any person who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy, fraud, theft, receiving stolen goods, unlawful issuance of checks or drafts, or other similar offense, or to any partnership of which the person is a member, or to any association or corporation of which the person is an officer ~~((or employee))~~ or in which as a stockholder the person has or exercises a controlling interest either directly or indirectly.

(2) The following shall be grounds for denial, suspension, or revocation of a license, or imposition of an administrative fine by the department:

(a) Misrepresentation or concealment of material facts in obtaining a license;

(b) Underreporting to the department of sales figures so that the auctioneer or auction company surety bond is in a lower amount than required by law;

- (c) Revocation of a license by another state;
- (d) Misleading or false advertising;
- (e) A pattern of substantial misrepresentations related to auctioneering or auction company business;
- (f) Failure to cooperate with the department in any investigation or disciplinary action;
- (g) Nonpayment of an administrative fine prior to renewal of a license;
- (h) Aiding an unlicensed person to practice as an auctioneer or as an auction company; and
- (i) Any other violations of this chapter.

Sec. 13. Section 15, chapter 205, Laws of 1982 and RCW 18.11.170 are each amended to read as follows:

Any (~~person, partnership, association, or corporation who after June 10, 1982, engages in the profession, or acts in the capacity of an~~) auctioneer and any auction company that conducts business within this state without a license or after the suspension or revocation of his or her license ((is guilty of a misdemeanor. Upon conviction, the person shall be fined for the first offense not less than one hundred dollars, nor more than five hundred dollars. For a second offense, the person shall be fined not less than five hundred dollars nor more than one thousand dollars, or be imprisoned for a period of not more than one year, or both)) shall be fined by the department five hundred dollars for the first offense and one thousand dollars for the second or subsequent offense.

Sec. 14. Section 16, chapter 205, Laws of 1982 and RCW 18.11.180 are each amended to read as follows:

It shall be unlawful for a licensed auctioneer or licensed auction company to pay compensation in money or otherwise to anyone not licensed under this chapter to render any service or to do any act forbidden under this chapter to be rendered or performed except by licensees. The department shall fine any person who violates this section five hundred dollars for the first offense and one thousand dollars for the second or subsequent offense. Furthermore, the violation of this section by any licensee shall be, in the discretion of the department, sufficient cause for license suspension or revocation.

Sec. 15. Section 17, chapter 205, Laws of 1982 and RCW 18.11.190 are each amended to read as follows:

No action or suit may be instituted in any court of this state by any person, partnership, association, or corporation not licensed as an auctioneer and as an auction company to recover compensation for an act done or service rendered which is prohibited under this chapter.

Sec. 16. Section 18, chapter 205, Laws of 1982 and RCW 18.11.200 are each amended to read as follows:

The director (~~((may prescribe))~~) shall adopt rules for the purpose of carrying out and developing this chapter, including rules governing the conduct of investigations and inspections and the imposition of administrative penalties. (~~((Upon finding that any provision of this chapter has been violated, the director may deny issuance or renewal of any license authorized under this chapter or suspend or revoke any such license.))~~)

NEW SECTION. Sec. 17. The director shall impose and collect the administrative fines authorized by this chapter. Any administrative fine imposed under this chapter or the agency rules adopted pursuant to this chapter may be appealed under chapter 34.04 RCW, the administrative procedure act. Assessment of an administrative fine shall not preclude the initiation of any disciplinary, civil, or criminal action for the same or similar violations.

***NEW SECTION.** Sec. 18. (1) *There is created within the department a disciplinary review committee composed of two licensees and three public members to be appointed by the director. Members shall be residents of the state, and no member shall be an employee of the department. Each member shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.*

(2) *The director shall appoint members for terms of two years, except that two of the initial members shall be appointed for one-year terms. No member shall serve more than two consecutive terms. Vacancies shall be filled by the director for the remainder of the unexpired term. The committee shall elect a chairperson from among its members for a term of one year or until a successor has been elected.*

(3) *The committee shall meet four times a year or as often as necessary with the department staff responsible for administration of the auctioneer registration program. The committee may (a) advise the department on all matters pertaining to the auctioneer registration program, and (b) review administrative fines and other disciplinary actions under this chapter and make appropriate recommendations to the director.*

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

Sec. 19. Section 1, chapter 189, Laws of 1984 and RCW 18.11.210 are each amended to read as follows:

All newspaper advertising regarding auctions that is purchased by an auctioneer or an auction company licensed under this chapter shall include the auctioneer's or auction company's name and license number. Any auctioneer or auction company that violates this section is subject to an administrative fine of one hundred dollars per violation.

NEW SECTION. Sec. 20. The client of an auctioneer or auction company has a right to (1) an accounting for any money that the auctioneer or auction company receives from the sale of the client's goods, and (2) payment of all money due to the client within twenty-one calendar days

unless the parties have mutually agreed in writing to another time of payment.

NEW SECTION. Sec. 21. Auction proceeds due to the client that are received by the auctioneer or auction company and not paid to the client within twenty-four hours of the sale shall be deposited by the auctioneer or auction company in a trust account for the client in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in the state. The auctioneer or auction company shall draw on the trust account only to pay proceeds to the client, or such other persons who are legally entitled to such proceeds, and to obtain the sums due to the auctioneer or auction company for services as set out in the written contract required under RCW 18.11.130. Funds in the trust account shall not be subject to the debt of the auctioneer or auction company and shall not be used for personal reasons or other business reasons.

NEW SECTION. Sec. 22. The following requirements shall apply to bidding at auctions:

(1) An auctioneer conducting an auction and an auction company where an auction is being held shall not bid on or offer to buy any goods or real property at the auction unless the auctioneer or the auction company discloses the name of the person on whose behalf the bid or offer is being made.

(2) An auctioneer and an auction company shall not use any method of bidding at an auction that will allow goods or real property to be purchased in an undisclosed manner on behalf of the auctioneer or auction company.

(3) At a public auction conducted or supervised by an auctioneer or auction company, the auctioneer or auction company shall not fictitiously raise any bid, knowingly permit any person to make a fictitious bid, or employ or use another person to act as a bidder or buyer.

(4) All goods or real property offered for sale at an auction shall be subject to a reserve or a confirmation from the owner or consignor unless otherwise indicated by the auctioneer or auction company. Except as provided in this subsection, an auctioneer or auction company shall not use any method of bidding at an auction that allows the auctioneer or auction company to avoid selling any property offered for sale at auction.

(5) A licensee who violates any provision of this section shall be subject to an administrative fine in a sum not exceeding five hundred dollars for each violation.

NEW SECTION. Sec. 23. Auctioneers and auction companies may call for bids on real estate but only persons licensed under chapter 18.85 RCW may perform activities regulated under that chapter.

***NEW SECTION. Sec. 24. No city and no county shall license auctioneers or auction companies or require auctioneers or auction companies to obtain surety bonding.**

**Sec. 24 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 25. A violation of this chapter is hereby declared to affect the public interest and to offend public policy. Any violation, act, or practice by an auctioneer or auction company which is unfair or deceptive, shall constitute an unfair or deceptive act or practice in violation of RCW 19.86.020. The remedies and sanctions provided in this section shall not preclude application of other available remedies and sanctions.

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 205, Laws of 1982, section 8, chapter 7, Laws of 1985 and RCW 18.11.080;

(2) Section 7, chapter 205, Laws of 1982 and RCW 18.11.090;

(3) Section 9, chapter 205, Laws of 1982, section 10, chapter 7, Laws of 1985 and RCW 18.11.110;

(4) Section 10, chapter 205, Laws of 1982, section 3, chapter 189, Laws of 1984 and RCW 18.11.120;

(5) Section 1, chapter 205, Laws of 1982 and RCW 18.11.900;

(6) Section 19, chapter 205, Laws of 1982 and RCW 18.11.910;

(7) Section 1, chapter 239, Laws of 1953 and RCW 18.12.010;

(8) Section 2, chapter 239, Laws of 1953 and RCW 18.12.020;

(9) Section 3, chapter 239, Laws of 1953 and RCW 18.12.030;

(10) Section 7, chapter 239, Laws of 1953 and RCW 18.12.040;

(11) Section 4, chapter 239, Laws of 1953 and RCW 18.12.050;

(12) Section 5, chapter 239, Laws of 1953 and RCW 18.12.060;

(13) Section 6, chapter 239, Laws of 1953 and RCW 18.12.070;

(14) Section 8, chapter 239, Laws of 1953 and RCW 18.12.080;

(15) Section 19, chapter 239, Laws of 1953 and RCW 18.12.090;

(16) Section 14, chapter 239, Laws of 1953 and RCW 18.12.100;

(17) Section 16, chapter 239, Laws of 1953 and RCW 18.12.110;

(18) Section 17, chapter 239, Laws of 1953 and RCW 18.12.120;

(19) Section 9, chapter 239, Laws of 1953 and RCW 18.12.130;

(20) Section 10, chapter 239, Laws of 1953 and RCW 18.12.140;

(21) Section 11, chapter 239, Laws of 1953 and RCW 18.12.150;

(22) Section 12, chapter 239, Laws of 1953 and RCW 18.12.160;

(23) Section 13, chapter 239, Laws of 1953 and RCW 18.12.170;

(24) Section 15, chapter 239, Laws of 1953 and RCW 18.12.180;

(25) Section 18, chapter 239, Laws of 1953 and RCW 18.12.190;

(26) Section 20, chapter 239, Laws of 1953 and RCW 18.12.200; and

(27) Section 21, chapter 239, Laws of 1953 and RCW 18.12.900.

NEW SECTION. Sec. 27. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 28. Sections 5, 6, 8, 17, 18, 20 through 25, and 27 of this act are each added to chapter 18.11 RCW.

NEW SECTION. Sec. 29. This act shall take effect on July 1, 1986.

Passed the Senate March 12, 1986.

Passed the House March 4, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval of sections 18 and 24, Substitute Senate Bill No. 4779, entitled:

"AN ACT Relating to auctions."

The intent of this legislation is to retain the current licensing and bonding and trust accounts systems for auctioneers and add consumer protection by establishing standards for certain business practices and declaring that deviations from these practices constitute violations of the Consumers Protection Act.

Auctioneering is a growing industry in this state. The rapid growth of such service industries in which the service provider has substantial responsibilities for handling the merchandise and cash flow of clients frequently creates the potential for abuse. This legislation is intended to put in place appropriate protections for consumers before such abuses become a serious problem.

Section 18 of this legislation would establish a new Disciplinary Review Committee. This disciplinary committee is premature and would have no enforcement powers.

Section 24 of this legislation would forbid any regulation of auctioneers by cities and counties. This may interfere with the power of local governments to require business licenses and the payment of business taxes.

For the above reasons, sections 18 and 24 are vetoed.

With the exception of sections 18 and 24, Substitute Senate Bill No. 4779 is approved."

CHAPTER 325

[Second Substitute Senate Bill No. 3487]

ENERGY CONSERVATION IN STATE BUILDINGS

AN ACT Relating to energy consumption in state agencies; amending RCW 43.19.680; adding new sections to chapter 43.41 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) Capital investments in energy conservation in buildings can produce significant reductions in energy use, reducing the need to import or extract fossil fuels and lowering the cost of operating buildings.

(2) The state of Washington has an obligation to operate state buildings efficiently and to implement all cost-effective energy conservation measures so that citizens are assured that public funds are spent wisely and so that citizens have an example of the savings possible from energy conservation.

(3) The state has completed energy consumption and walk-through surveys of its buildings and other facilities and has established a schedule for technical assistance studies which is the basis for implementing energy conservation measure installations to meet the milestones in RCW 43.19-.680. However, there is uncertainty that the milestones will be met.

(4) The potential savings from energy conservation can be more readily realized by explicitly considering conservation measures and procedures in the state's budgeting and long-range planning process.

*Sec. 2. Section 5, chapter 172, Laws of 1980 as last amended by section 1, chapter 313, Laws of 1983 and RCW 43.19.680 are each amended to read as follows:

(1) Upon completion of each walk-through survey required by RCW 43.19.675, the director of general administration or the agency responsible for the facility if other than the department of general administration shall implement energy conservation maintenance and operation procedures that may be identified for any state-owned facility. These procedures shall be implemented as soon as possible but not later than twelve months after the walk-through survey.

(2) By December 31, 1981, for the capitol campus the director of general administration, in cooperation with the director of the state energy office, shall prepare and transmit to the governor and the legislature an implementation plan.

(3) By December 31, 1983, for all other state-owned facilities, the director of general administration in cooperation with the director of the state energy office shall prepare and transmit to the governor and the legislature the results of the energy consumption and walk-through surveys and a schedule for the conduct of technical assistance studies. This submission shall contain the energy conservation measures planned for installation during the ensuing biennium. Priority considerations for scheduling technical assistance studies shall include but not be limited to a facility's energy efficiency, responsible agency participation, comparative cost and type of fuels, possibility of outside funding, logistical considerations such as possible need to vacate the facility for installation of energy conservation measures, coordination with other planned facility modifications, and the total cost of a facility modification, including other work which would have to be done as a result of installing energy conservation measures. Energy conservation measure acquisitions and installations shall be scheduled to be twenty-five percent complete by June 30, 1985, or at the end of the capital budget biennium which includes that date, whichever is later, fifty-five percent complete by

June 30, 1989, or at the end of the capital budget biennium which includes that date, whichever is later, eighty-five percent complete by June 30, 1993, or at the end of the capital budget biennium which includes that date, whichever is later, and fully complete by June 30, 1995, or at the end of the capital budget biennium which includes that date, whichever is later. Each state agency shall implement energy conservation measures with a payback period of twenty-four months or less that have a positive cash flow in the same biennium.

For each biennium until all measures are installed, the director of general administration shall report to the governor and legislature installation progress, measures planned for installation during the ensuing biennium, and changes, if any, to the technical assistance study schedule. This report shall be submitted by December 31, 1984, or at the end of the following year whichever immediately precedes the capital budget adoption, and every two years thereafter until all measures are installed. The office of financial management shall indicate which of the measures in the foregoing report are included in the biennial budget request and the total cost to accomplish those measures which are not included.

(4) The director of general administration shall adopt rules to facilitate private investment in energy conservation measures for state-owned buildings consistent with state law.

*Sec. 2 was partially vetoed, see message at end of chapter.

***NEW SECTION.** Sec. 3. *(1) The office of financial management shall develop policy guidelines for state agencies to use in budgeting for and implementing energy conservation maintenance and operation procedures and energy conservation measures, including those mandated under RCW 43.19.680;*

(2) The guidelines shall require that agencies budget for the timely implementation of cost-effective measures and procedures or explain why any measures or procedures should not be funded;

(3) In developing the guidelines the office of financial management shall ensure that to the extent possible the budget process shall allow state agencies implementing energy conservation to retain the resulting cost savings for other purposes, including further energy conservation; and

(4) The office of financial management shall consult with the state energy office and the department of general administration, as necessary, to administer this section properly. The office of financial management shall establish the guidelines by December 31, 1986.

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

NEW SECTION. Sec. 4. The state energy office shall provide the office of financial management with energy consumption data necessary to implement section 3 of this act. Facilities or the agencies responsible for them shall report accurate monthly energy consumption and cost figures for

all fuels to the state energy office quarterly, including any changes in total space served or facility operations.

NEW SECTION. Sec. 5. Sections 3 and 4 of this act are each added to chapter 43.41 RCW.

Passed the Senate March 8, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

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

"I am returning herewith, without my approval as to section 2(3) and section 3(1), (2) and (4), Second Substitute Senate Bill No. 3487, entitled:

"AN ACT Relating to energy consumption in state agencies."

I have vetoed the amendatory language "and the total cost to accomplish those measures which are not included" from the last sentence in section 2(3). This language would require explanatory information regarding items not included in the biennial budget request. Such a provision would be contrary to traditional budgetary practice.

I have also vetoed 3(1), (2) and (4) which would require the Office of Financial Management to develop guidelines for budgeting and implementation of state agency energy conservation initiatives. It would be inappropriate for the Office of Financial Management to be involved in such detailed operational matters. Agency management must be allowed to prioritize among competing state goals if they are to be held accountable for achieving the desired results. Notwithstanding these vetoed provisions, I will direct the Office of Financial Management to develop budget guidelines for energy related items.

With the exception of section 2(3) and section 3(1), (2) and (4), Second Substitute Senate Bill No. 3487 is approved."

PROPOSED CONSTITUTIONAL AMENDMENTS

**(Adopted at the 1986 Regular Session for submission to the voters at
the November 1986 general election)**

PROPOSED CONSTITUTIONAL AMENDMENTS SHJR 49

PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 1986 REGULAR SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 1986
SUBSTITUTE HOUSE JOINT RESOLUTION NO. 49

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 XXVIII, section 1 of the Constitution of the state of Washington to read as follows:

Article XXVIII, section 1. (~~All elected state officials shall each severally receive such compensation as the legislature may direct. The compensation of any state officer shall not be increased or diminished during his term of office, except that the legislature, at its thirty-first regular session, may increase or diminish the compensation of all state officers whose terms exist on the Thursday after the second Monday in January, 1949.~~)

Salaries for members of the legislature, elected officials of the executive branch of state government, and judges of the state's supreme court, court of appeals, superior courts, and district courts shall be fixed by an independent commission created and directed by law to that purpose. No state official, public employee, or person required by law to register with a state agency as a lobbyist, or immediate family member of the official, employee, or lobbyist, may be a member of that commission.

As used in this section the phrase "immediate family" has the meaning that is defined by law.

Any change of salary shall be filed with the secretary of state and shall become law ninety days thereafter without action of the legislature or governor, but shall be subject to referendum petition by the people, filed within the ninety-day period. Referendum measures under this section shall be submitted to the people at the next following general election, and shall be otherwise governed by the provisions of this Constitution generally applicable to referendum measures. The salaries fixed pursuant to this section shall supersede any other provision for the salaries of members of the legislature, elected officials of the executive branch of state government, and judges of the state's supreme court, court of appeals, superior courts, and district courts. The salaries for such officials in effect on January 12, 1987, shall remain in effect until changed pursuant to this section.

After the initial adoption of a law by the legislature creating the independent commission, no amendment to such act which alters the composition of the commission shall be valid unless the amendment is enacted by a

SHJR 49 PROPOSED CONSTITUTIONAL AMENDMENTS

favorable vote of two-thirds of the members elected to each house of the legislature and is subject to referendum petition.

The provisions of section 14 of Article IV, sections 14, 16, 17, 19, 20, 21, and 22 of Article III, and section 23 of Article II, insofar as they are inconsistent herewith, are hereby ((repeated)) superseded. The provisions of section 1 of Article II relating to referendum procedures, insofar as they are inconsistent herewith, are hereby superseded with regard to the salaries governed by this section.

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 House March 12, 1986.

Passed the Senate March 10, 1986.

Filed in Office of Secretary of State March 17, 1986.

PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 1986 REGULAR SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 1986
HOUSE JOINT RESOLUTION NO. 55

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 VII, section 2 of the Constitution of the state of Washington to read as follows:

Article 7, section 2. Except as hereinafter provided and notwithstanding any other provision of this Constitution, the aggregate of all tax levies upon real and personal property by the state and all taxing districts now existing or hereafter created, shall not in any year exceed one per centum of the true and fair value of such property in money: PROVIDED, HOWEVER, That nothing herein shall prevent levies at the rates now provided by law by or for any port or public utility district. The term "taxing district" for the purposes of this section shall mean any political subdivision, municipal corporation, district, or other governmental agency authorized by law to levy, or have levied for it, ad valorem taxes on property, other than a port or public utility district. Such aggregate limitation or any specific limitation imposed by law in conformity therewith may be exceeded only

(a) By any taxing district when specifically authorized so to do by a majority of at least three-fifths of the electors thereof voting on the proposition to levy such additional tax submitted not more than twelve months prior to the date on which the proposed levy is to be made and not oftener than twice in such twelve month period, either at a special election or at the regular election of such taxing district, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in such taxing district at the last preceding general election when the number of electors voting on the proposition does not exceed forty per centum of the total votes cast in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition to levy when the number of electors voting on the proposition exceeds forty per centum of the total votes cast in such taxing district in the last preceding general election: **PROVIDED**, That notwithstanding any other provision of this Constitution, any proposition pursuant to this subsection to levy additional tax for the support of the common schools may provide such support for a two year period and any proposition to levy an additional tax to support the construction, modernization, or remodelling of school facilities may provide such support for a period not exceeding six years;

(b) By any taxing district otherwise authorized by law to issue general obligation bonds for capital purposes, for the sole purpose of making the required payments of principal and interest on general obligation bonds issued solely for capital purposes, other than the replacement of equipment, when authorized so to do by majority of at least three-fifths of the electors thereof voting on the proposition to issue such bonds and to pay the principal and interest thereon by an annual tax levy in excess of the limitation herein provided during the term of such bonds, submitted not oftener than twice in any calendar year, at an election held in the manner provided by law for bond elections in such taxing district, at which election the total number of persons voting on the proposition shall constitute not less than forty per centum of the total number of votes cast in such taxing district at the last preceding general election: **PROVIDED**, That any such taxing district shall have the right by vote of its governing body to refund any general obligation bonds of said district issued for capital purposes only, and to provide for the interest thereon and amortization thereof by annual levies in excess of the tax limitation provided for herein, **AND PROVIDED FURTHER**, That the provisions of this section shall also be subject to the limitations contained in Article VIII, Section 6, of this Constitution;

(c) By the state or any taxing district for the purpose of paying the principal or interest on general obligation bonds outstanding on December 6, 1934; or for the purpose of preventing the impairment of the obligation of a contract when ordered so to do by a court of last resort.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at

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least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed the House March 8, 1986.

Passed the Senate March 5, 1986.

Filed in Office of Secretary of State March 11, 1986.

PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 1986 REGULAR SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 1986
SENATE JOINT RESOLUTION NO. 136

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 ~~((judicial qualifications))~~ 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 ~~((two))~~ 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 ~~((judicial qualifications))~~ 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

PROPOSED CONSTITUTIONAL AMENDMENTS SSJR 138

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.

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 10, 1986.

Passed the House March 7, 1986.

Filed in Office of Secretary of State March 14, 1986.

PROPOSED CONSTITUTIONAL AMENDMENT ADOPTED AT THE 1986 REGULAR SESSION FOR SUBMISSION TO THE VOTERS AT THE STATE GENERAL ELECTION, NOVEMBER 1986 SUBSTITUTE SENATE JOINT RESOLUTION NO. 138

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 II, section 15, of the Constitution of the state of Washington to read as follows:

Article II, section 15. ~~((Such))~~ (1) Vacancies ~~((as may))~~ that occur in either house of the state legislature or in any partisan county elective office shall be filled by appointment by the ~~((board of county commissioners))~~ legislative authority of the county in which the vacancy occurs ~~((PROVIDED, That))~~. The person appointed to fill the vacancy must be from the same legislative district, county, or county ~~((commissioner))~~ legislative authority district ~~((and the same political party))~~ as the legislator or partisan county elective officer whose office has been vacated ~~((, and))~~. The person appointed shall also be one of three persons ~~((who shall be))~~ nominated by the county central committee of ~~((that))~~ the political party ~~((, and))~~ of the partisan officer whose office has been vacated if the nominations are received by the county legislative authority within the time prescribed by

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statute. In case a majority of ((said)) the members of the county ((commissioners)) legislative authority do not agree upon the appointment within ((sixty days after the vacancy occurs)) the time prescribed by statute, the governor shall ((within thirty days thereafter, and)), from the list of nominees ((provided for herein)) submitted to the county legislative authority if the list was timely received, appoint a person who shall be from the same legislative district, county, or county ((commissioner)) legislative authority district ((and of the same political party)) as the legislator or partisan county elective officer whose office has been vacated((; and the person so appointed shall hold office until his successor is elected at the next general election, and shall have qualified. PROVIDED, That in case of a vacancy occurring in the office of joint senator, or joint representative, the vacancy shall be filled from a list of three nominees selected by the state central committee, by appointment by the joint action of the boards of county commissioners of the counties composing the joint senatorial or joint representative district, the person appointed to fill the vacancy must be from the same legislative district and of the same political party as the legislator whose office has been vacated, and in case a majority of said county commissioners do not agree upon the appointment within sixty days after the vacancy occurs, the governor shall within thirty days thereafter, and from the list of nominees provided for herein, appoint a person who shall be from the same legislative district and of the same political party as the legislator whose office has been vacated)).

(2) If the majority of the positions of a county legislative authority are vacant, the governor shall appoint to the legislative authority that number of persons necessary to establish a majority of filled positions. A person appointed to fill such a vacancy shall be from the same county legislative authority district as the officer whose office has been vacated. If the positions are partisan elective offices, a person appointed to fill such a vacancy shall also be one of three persons nominated by the county central committee of the same political party as the officer whose office has been vacated if the nominations are received by the governor within the time prescribed by statute.

(3) In case of a vacancy occurring in a nonpartisan county elective office, other than a judicial office, the county legislative authority shall appoint a person to fill the vacancy from the same county or county legislative authority district as the officer whose office has been vacated. If a majority of the members of the county legislative authority do not agree upon the appointment within the time prescribed by statute, the governor shall appoint a person from the same county or county legislative authority district.

(4) Vacancies that occur in the office of senator or representative of a state legislative district comprising more than one county shall be filled by appointment by the joint action of the legislative authorities of the counties within the district. The person appointed to fill the vacancy shall be from the same legislative district as the legislator whose office has been vacated.

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The person appointed shall also be one of three persons nominated by the state central committee of the political party of the legislator whose office has been vacated if the nominations are received by the county legislative authorities within the time prescribed by statute. In joint action, the individual vote of each county legislative authority member, not disqualified from voting under subsection (5) of this section, shall collectively amount to the percentage, rounded to the nearest whole number, that the population of the county or portion of the county within the legislative district bears to the population of the entire district. The population shall be determined by the most recent federal census and shall exclude nonresident military personnel. The vacancy shall be filled if one person receives a majority percentage of the votes of the county legislative authorities. If the members of the jointly meeting county legislative authorities do not agree upon an appointment to fill the vacancy within the time prescribed by statute, the governor shall, from the list of nominees submitted to the county legislative authorities if the list was timely received, make the appointment within the time prescribed by statute.

(5) An otherwise qualified member of a county legislative authority is eligible to be appointed to fill a vacancy governed by this section only if the member does not vote in an action or joint action to fill the vacancy.

(6) The legislature shall prescribe the time limits within which the state and county central committees must submit lists of nominees, within which a county legislative authority or county legislative authorities must agree upon an appointment, and within which the governor must make appointments under the terms of this section. If lists of nominees are not timely received, the appointing authority may appoint any qualified person to fill the vacancy.

(7) A person appointed to fill a vacancy in a partisan office under this section shall hold office until a successor is elected at the next state general election as specified by statute and has been qualified.

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 12, 1986.

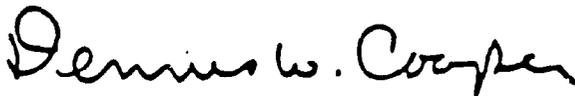
Passed the House March 12, 1986.

Filed in Office of Secretary of State March 14, 1986.

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 1986 regular session, chapters 1 through 325, (49th Legislature) 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-first day of May, 1986.

A handwritten signature in black ink that reads "Dennis W. Cooper". The signature is written in a cursive style with a large initial "D".

DENNIS W. COOPER
Code Reviser

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TABLE: BILL NO. TO CHAPTER NO.

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4.16.350	AMD	305	502	9.94A.410	AMD 257 29
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4.92.060	AMD	126	5	9.95.007	REP 224 14
4.92.070	AMD	126	6		(Effective 6/30/92)
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4.92.131	REP	126	13		(Effective 6/30/92)
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4.92.170	AMD	126	10	9.95.015	REP 224 14
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5.60.060	AMD	305	101	9.95.310	AMD 125 1
5.62.020	AMD	212	1	9.95.320	AMD 125 2
5.62.030	AMD	212	2	9.95.340	AMD 125 3
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7.75	ADD	95	2	9A.04.080	REMD 257 13
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9.68A.110	AMD	319	3	9A.16.020	AMD 149 2
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	(Effective 7/1/87)		18.04.035	AMD 295	2
9A.36.020	REP 257	9	18.04.045	AMD 295	3
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9A.36.030	REP 257	9	18.04.185	AMD 295	7
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13.32A.070	AMD 288	2			
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13.40.025	AMD 288	8	18.11.060	AMD 324	3
13.40.027	AMD 288	9	18.11.070	AMD 324	4
13.40.200	AMD 288	5	18.11.080	REP 324	26
13.40.300	AMD 288	6	18.11.090	REP 324	26
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13.50.050	AMD 257	33	18.11.110	REP 324	26
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16.20.030	AMD 177	2	18.12.010	REP 324	26
16.38.060	AMD 203	6	18.12.020	REP 324	26
16.67	ADD 190	1	18.12.030	REP 324	26
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18.12.140	REP	324	26	18.27.310	AMD	197	8
18.12.150	REP	324	26	18.27.320	AMD	197	9
18.12.160	REP	324	26	18.27.330	REP	197	13
18.12.170	REP	324	26	18.27.340	AMD	197	10
18.12.180	REP	324	26	18.29	ADD	259	31
18.12.190	REP	324	26	18.29.010	REP	259	32
18.12.200	REP	324	26	18.29.075	REP	259	32
18.12.900	REP	324	26	18.29.080	REP	259	32
18.20.130	AMD	266	81	18.29.090	REP	259	32
18.22	ADD	259	17	18.32	ADD	259	34
18.22.015	AMD	259	18	18.32.038	REP	259	43
18.22.016	REP	259	19	18.32.055	REP	259	43
18.22.017	REP	259	19	18.32.080	REP	259	43
18.22.020	REP	259	19	18.32.085	AMD	259	35
18.22.141	REP	259	19	18.32.090	REP	259	43
18.22.151	REP	259	19	18.32.230	REP	259	43
18.22.215	REP	259	19	18.32.290	AMD	259	36
18.25	ADD	259	21	18.32.360	AMD	259	37
18.25.010	REP	259	27	18.32.380	REP	259	43
18.25.017	AMD	259	23	18.32.390	AMD	259	38
18.25.018	REP	259	27	18.32.500	AMD	259	39
18.25.050	REP	259	27	18.32.520	AMD	259	40
18.25.090	AMD	259	24	18.32.530	AMD	259	41
18.26	ADD	259	22	18.32.535	REP	259	43
18.26.027	REP	259	29	18.32.540	REP	259	43
18.26.030	AMD	259	25	18.32.550	REP	259	43
18.26.035	REP	259	29	18.32.630	REP	259	43
18.26.037	REP	259	29	18.32.640	AMD	259	42
18.26.100	REP	259	29	18.32.650	REP	259	43
18.26.110	AMD	259	26	18.32.660	REP	259	43
18.26.120	REP	259	29	18.32.670	REP	259	43
18.26.130	REP	259	29	18.32.680	REP	259	43
18.26.140	REP	259	29	18.32.690	REP	259	43
18.26.150	REP	259	29	18.32.700	REP	259	43
18.26.160	REP	259	29	18.32.710	REP	259	43
18.26.170	REP	259	29	18.32.720	REP	259	43
18.26.180	REP	259	29	18.32.730	REP	259	43
18.26.190	REP	259	29	18.32.740	REP	259	43
18.26.200	REP	259	29	18.32.750	REP	259	43
18.26.210	REP	259	29	18.32.760	REP	259	43
18.26.220	REP	259	29	18.32.770	REP	259	43
18.26.230	REP	259	29	18.32.780	REP	259	43
18.26.240	REP	259	29	18.34	ADD	259	45
18.26.250	REP	259	29	18.34.090	REP	259	46
18.26.270	REP	259	29	18.34.100	REP	259	46
18.26.280	REP	259	29	18.34.135	REP	259	46
18.26.290	REP	259	29	18.34.140	REP	259	46
18.26.300	REP	259	29	18.34.150	RFP	259	46
18.26.310	REP	259	29	18.35.173	REP	259	48
18.27	ADD	197	11,12	18.36	ADD	259	49
18.27.020	AMD	197	1	18.36.010	AMD	259	50
18.27.110	AMD	197	14	18.36.020	AMD	259	51
18.27.210	AMD	197	2	18.36.030	AMD	259	52
18.27.230	AMD	197	3	18.36.040	AMD	259	53

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RCW	CH.	SEC.	RCW	CH.	SEC.		
18.36.050	AMD	259	54	18.55.090	REP	259	90
18.36.060	AMD	259	55	18.55.100	REP	259	90
18.36.130	AMD	259	56	18.57	ADD	259	92
18.36.135	REP	259	57	18.57	ADD	300	9,10
18.36.140	REP	259	57	18.57.005	AMD	259	94
18.36.150	REP	259	57	18.57.009	REP	259	98
18.39	ADD	259	59	18.57.030	REP	259	98
18.39.130	AMD	259	60	18.57.170	REP	259	98
18.39.145	AMD	259	61	18.57.173	REP	259	98
18.39.148	AMD	259	62	18.57.175	REP	259	98
18.39.150	AMD	259	63	18.57.177	REP	259	98
18.39.175	AMD	259	64	18.57.181	REP	259	98
18.39.176	REP	259	73	18.57.185	REP	259	98
18.39.179	REP	259	73	18.57.195	REP	259	98
18.39.181	AMD	259	65	18.57.205	REP	259	98
18.39.223	REP	259	73	18.57A	ADD	259	93
18.39.225	REP	259	73	18.57A.030	AMD	259	95
18.39.231	AMD	259	66	18.57A.040	AMD	259	96
18.39.260	AMD	259	67	18.57A.050	AMD	259	97
18.39.280	AMD	259	68	18.59	ADD	259	100
18.39.290	AMD	259	69	18.59.030	REP	259	103
18.39.300	AMD	259	70	18.59.100	AMD	259	101
18.39.310	REP	259	73	18.59.130	AMD	259	102
18.39.320	AMD	259	71	18.59.140	REP	259	103
18.39.330	AMD	259	72	18.59.200	REP	259	103
18.39.340	REP	259	73	18.71	ADD	68	2,3
18.39.910	REP	270	10	18.71	ADD	259	105
18.43.030	AMD	102	1	18.71.018	REP	259	119
18.43.035	AMD	102	2	18.71.020	REP	259	119
18.43.090	REP	102	5	18.71.025	REP	259	119
18.43.110	AMD	102	3	18.71.030	AMD	259	108
18.43.120	AMD	102	4	18.71.050	AMD	259	109
18.46.110	AMD	266	82	18.71.095	AMD	259	110
18.50	ADD	259	75	18.71.120	REP	259	119
18.50.040	AMD	299	24	18.71.140	REP	259	119
18.50.100	REP	259	76	18.71.145	REP	259	119
18.50.120	REP	259	76	18.71.165	REP	259	119
18.50.125	REP	259	76	18.71.180	REP	259	119
18.51.140	AMD	266	83	18.71.200	AMD	259	111
18.51.145	AMD	266	84	18.71.205	AMD	68	1
18.53	ADD	259	78	18.71.210	AMD	68	4
18.53.020	REP	259	85	18.71.215	AMD	68	5
18.53.030	AMD	259	80	18.71.230	AMD	259	112
18.53.100	AMD	259	81	18.71A	ADD	259	106
18.53.140	AMD	259	82	18.71A.040	AMD	259	113
18.53.150	AMD	259	83	18.71A.050	AMD	259	114
18.53.155	REP	259	85	18.72	ADD	259	107
18.54	ADD	259	79	18.72	ADD	300	5,6
18.54.070	AMD	259	84	18.72.020	AMD	259	115
18.54.075	REP	259	87	18.72.030	REP	259	121
18.54.080	REP	259	87	18.72.040	AMD	300	2
18.54.100	REP	259	87	18.72.135	REP	259	121
18.54.110	REP	259	87	18.72.140	REP	259	121
18.54.120	REP	259	87	18.72.150	AMD	259	116
18.55	ADD	259	89	18.72.153	REP	259	121
18.55.065	REP	259	90	18.72.160	REP	259	121
18.55.070	REP	259	90	18.72.170	REP	259	121
18.55.080	REP	259	90	18.72.175	REP	259	121

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RCW	CH.	SEC.	RCW	CH.	SEC.
18.72.180	REP	259	121	18.92.033	REP 259 144
18.72.201	REP	259	121	18.92.045	REP 259 144
18.72.230	REP	259	121	18.92.050	REP 259 144
18.72.240	REP	259	121	18.92.070	AMD 259 141
18.72.245	REP	259	121	18.92.120	AMD 259 142
18.72.250	REP	259	121	18.92.125	AMD 259 143
18.72.260	REP	259	121	18.92.160	REP 259 144
18.72.265	AMD	259	117	18.92.180	REP 259 144
18.72.270	REP	259	121	18.92.210	REP 259 144
18.72.275	REP	259	121	18.92.220	REP 259 144
18.72.280	REP	259	121	18.92.235	REP 259 144
18.72.290	REP	259	121	18.100	ADD 261 4,5
18.72.300	REP	259	121	18.100.050	AMD 261 1
18.72.320	REP	259	121	18.100.130	AMD 261 2
18.72.330	REP	259	121	18.100.134	AMD 261 3
18.73.020	AMD	259	118	18.108	ADD 259 146
18.74	ADD	259	123	18.108.075	REP 259 147
18.74.023	AMD	259	124	18.108.080	REP 259 147
18.74.028	REP	259	126	18.108.110	REP 259 147
18.74.080	REP	259	126	18.130	ADD 259 15
18.74.082	REP	259	126	18.130.010	AMD 259 1
18.74.084	REP	259	126	18.130.020	AMD 259 2
18.74.086	REP	259	126	18.130.030	REP 259 16
18.74.088	REP	259	126	18.130.040	AMD 259 3
18.74.090	AMD	259	125	18.130.070	AMD 259 4
18.74.100	REP	259	126	18.130.080	AMD 259 5
18.78	ADD	259	128	18.130.090	AMD 259 6
18.78.050	AMD	259	129	18.130.130	AMD 259 7
18.78.053	REP	259	132	18.130.160	AMD 259 8
18.78.070	AMD	259	130	18.130.170	AMD 259 9
18.78.090	AMD	259	131	18.130.180	AMD 259 10
18.78.135	REP	259	132	18.130.190	AMD 259 11
18.78.145	REP	259	132	18.130.200	AMD 259 12
18.78.155	REP	259	132	18.130.210	AMD 259 13
18.78.165	REP	259	132	18.130.900	AMD 259 14
18.78.170	REP	259	132	18.135	ADD 216 1
18.78.175	REP	259	132	18.135	ADD 216 4
18.83	ADD	27	7,9	18.135.020	AMD 115 2
18.83.020	AMD	27	1	18.135.030	AMD 216 2
18.83.035	AMD	27	2	18.135.060	AMD 115 1
18.83.050	AMD	27	3	18.135.060	AMD 216 3
18.83.053	REP	259	134	19	ADD 218 1-9
18.83.080	AMD	27	4	19	ADD 283 1-9
18.83.100	AMD	27	5		(Effective 1/1/87)
18.83.130	AMD	27	6	19	ADD 320 1,3-15,
18.83.190	AMD	27	8		17-19,
18.83.200	AMD	27	10	19.09	ADD 230 5,6,10,17
18.88	ADD	259	135		(Effective 1/1/87)
18.88.085	REP	259	137	19.09.010	AMD 230 1
18.88.210	REP	259	137		(Effective 1/1/87)
18.88.230	REP	259	137	19.09.020	AMD 230 2
18.88.240	REP	259	137		(Effective 1/1/87)
18.88.250	REP	259	137	19.09.030	REP 230 19
18.88.260	REP	259	137		(Effective 1/1/87)
18.88.265	REP	259	137	19.09.045	REP 230 19
18.88.270	AMD	259	136		(Effective 1/1/87)
18.92	ADD	259	139	19.09.050	REP 230 19
18.92.030	AMD	259	140		(Effective 1/1/87)

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RCW	CH.	SEC.	RCW	CH.	SEC.
19.09.065	AMD 230 (Effective 1/1/87)	3	19.91.010	REP 321 (Effective 7/1/91)	14
19.09.069	REP 230 (Effective 1/1/87)	19	19.91.020	REP 321 (Effective 7/1/91)	14
19.09.075	AMD 230 (Effective 1/1/87)	4	19.91.030	REP 321 (Effective 7/1/91)	14
19.09.079	AMD 230 (Effective 1/1/87)	7	19.91.040	REP 321 (Effective 7/1/91)	14
19.09.085	AMD 230 (Effective 1/1/87)	8	19.91.050	REP 321 (Effective 7/1/91)	14
19.09.095	AMD 230 (Effective 1/1/87)	9	19.91.060	REP 321 (Effective 7/1/91)	14
19.09.100	AMD 230 (Effective 1/1/87)	11	19.91.070	REP 321 (Effective 7/1/91)	14
19.09.190	AMD 230 (Effective 1/1/87)	16	19.91.080	REP 321 (Effective 7/1/91)	14
19.09.200	AMD 230 (Effective 1/1/87)	12	19.91.090	REP 321 (Effective 7/1/91)	14
19.09.210	AMD 230 (Effective 1/1/87)	13	19.91.100	REP 321 (Effective 7/1/91)	14
19.09.230	AMD 230 (Effective 1/1/87)	14	19.91.110	REP 321 (Effective 7/1/91)	14
19.09.240	AMD 230 (Effective 1/1/87)	15	19.91.120	REP 321 (Effective 7/1/91)	14
19.09.275	AMD 230 (Effective 1/1/87)	18	19.91.130	REP 321 (Effective 7/1/91)	14
19.27.060	AMD 118	15	19.91.140	REP 321 (Effective 7/1/91)	14
19.27A.110	AMD 266	85	19.91.150	REP 321 (Effective 7/1/91)	14
19.28.005	AMD 156	1	19.91.160	REP 321 (Effective 7/1/91)	14
19.28.010	AMD 156	2	19.91.170	REP 321 (Effective 7/1/91)	14
19.28.010	AMD 263	1	19.91.180	REP 321 (Effective 7/1/91)	14
19.28.060	AMD 156	3	19.91.190	REP 321 (Effective 7/1/91)	14
19.28.070	AMD 156	4	19.91.900	REP 321 (Effective 7/1/91)	14
19.28.120	AMD 156	5	19.91.910	REP 321 (Effective 7/1/91)	14
19.28.123	AMD 156	6	19.91.911	REP 321	3
19.28.125	AMD 156	7	19.114	ADD 37	1
19.28.180	AMD 156	8	20.01	ADD 178	1-5
19.28.190	AMD 156	9	20.01.010	AMD 178	6
19.28.310	AMD 156	10	20.01.035	REP 178	17
19.28.350	AMD 156	11	20.01.125	AMD 178	7
19.28.360	AMD 156	12	20.01.130	AMD 178	8
19.28.380	REP 156	18	20.01.210	AMD 178	9
19.28.540	AMD 156	13	20.01.220	AMD 178	10
19.28.550	AMD 156	14	20.01.230	AMD 178	11
19.28.570	AMD 156	15	20.01.240	AMD 178	12
19.28.590	REP 156	18	20.01.290	REP 178	17
19.28.610	AMD 156	16	20.01.460	AMD 178	13
19.28.620	AMD 156	17	20.01.610	AMD 178	14
19.30	ADD 197	19	21	ADD 14	1-42
19.30.040	AMD 197	15	21.20.110	AMD 14	45
19.30.081	AMD 197	16			
19.30.160	AMD 197	17			
19.30.170	AMD 197	18			
19.52	ADD 60	1			
19.91	ADD 321 (Effective 7/1/91)	13			
19.91.010	AMD 321	2			

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RCW	CH.	SEC.	RCW	CH.	SEC.
21.20.320	AMD	90	24.03.115	AMD	240
21.20.340	AMD	90	24.03.120	AMD	240
21.20.430	AMD	304	24.03.125	AMD	240
22.09.050	AMD	203	24.03.135	AMD	240
22.09.055	AMD	203	24.03.150	AMD	240
23A.04.010	AMD	117	24.03.155	AMD	240
23A.08	ADD	35	24.03.165	AMD	240
23A.08.070	AMD	117	24.03.180	AMD	240
23A.08.080	AMD	117	24.03.183	AMD	240
23A.08.110	AMD	117	24.03.185	AMD	240
23A.08.120	AMD	117	24.03.190	AMD	240
23A.08.150	AMD	117	24.03.195	AMD	240
23A.08.190	AMD	35	24.03.200	AMD	240
23A.08.200	AMD	35	24.03.205	AMD	240
23A.08.250	AMD	117	24.03.207	AMD	240
23A.08.260	AMD	117	24.03.215	AMD	240
23A.08.270	AMD	117	24.03.220	AMD	240
23A.08.305	AMD	117	24.03.265	AMD	240
23A.08.310	AMD	35	24.03.295	AMD	240
23A.08.320	AMD	35	24.03.300	AMD	240
23A.08.330	AMD	35	24.03.302	AMD	240
23A.08.380	AMD	117	24.03.305	AMD	240
23A.08.390	AMD	117	24.03.320	AMD	240
23A.08.400	AMD	117	24.03.325	AMD	240
23A.08.450	AMD	117	24.03.330	AMD	240
23A.16.020	AMD	117	24.03.345	AMD	240
23A.16.075	AMD	117	24.03.350	AMD	240
23A.24.040	AMD	35	24.03.355	REP	240
23A.32	ADD	117	24.03.360	AMD	240
23A.32.050	AMD	117	24.03.380	AMD	240
23A.32.090	AMD	117	24.03.385	AMD	240
23A.32.100	AMD	117	24.03.390	AMD	240
23A.32.110	REP	117	24.03.395	AMD	240
23A.32.120	REP	117	24.03.400	AMD	240
23A.32.130	AMD	117	24.03.405	AMD	240
23A.32.160	AMD	117	24.03.445	AMD	240
23A.32.170	AMD	117	26.09	ADD	95
23A.40.020	AMD	117	26.09.135	AMD	138
24.03	ADD	240	26.12	ADD	95
		16,19,23,	26.16	ADD	72
		37,57,58	26.21.125	AMD	138
24.03.005	AMD	240	26.26.132	AMD	138
24.03.015	AMD	240	26.44.030	AMD	145
24.03.020	AMD	240	26.44.070	AMD	269
24.03.030	AMD	240	27.04.030	AMD	79
24.03.035	AMD	240	27.34.020	AMD	266
24.03.038	REP	261	27.34.210	AMD	266
24.03.045	AMD	240	27.34.220	AMD	266
24.03.047	AMD	240	27.34.230	AMD	266
24.03.048	AMD	240	27.34.240	AMD	266
24.03.050	AMD	240	27.34.270	AMD	266
24.03.055	AMD	240	27.34.280	AMD	266
24.03.060	AMD	240	27.34.290	REP	266
24.03.065	AMD	240	27.34.905	DECOD	266
24.03.070	AMD	240	27.53.020	AMD	266
24.03.075	AMD	240	27.53.030	AMD	266
24.03.100	AMD	240	27.53.060	AMD	266
24.03.105	AMD	240	27.53.080	AMD	266
24.03.110	AMD	240			

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RCW	CH.	SEC.	RCW	CH.	SEC.		
27.53.090	AMD	266	20	28B.15	ADD	232	2
27.60	ADD	157	2	28B.15.044	AMD	91	1
27.60	ADD	280	3	28B.15.045	AMD	91	2
28A.02	ADD	143	1,2	28B.15.067	AMD	42	1
28A.03	ADD	147	1,2, 5,7,8	28B.15.740	AMD	232	3
28A.03	ADD	180	1	28B.16.112	AMD	158	4
28A.04.120	AMD	149	3	28B.20	ADD	31	1
28A.04.120	AMD	266	86	28B.50.070	AMD	130	1
28A.05.010	AMD	149	4	28B.80.360	AMD	136	20
28A.24.055	AMD	32	1	28C	ADD	299	1-22
28A.24.172	AMD	266	21	28C.04.040	AMD	266	78
28A.27.010	AMD	132	1	28C.04.142	REP	266	135
28A.27.020	AMD	132	2	28C.04.144	REP	266	135
28A.27.022	AMD	132	3	28C.50.010	AMD	266	62
28A.27.040	AMD	132	4	28C.50.050	AMD	266	63
28A.27.100	AMD	132	5	28C.51.010	AMD	266	64
28A.27.110	AMD	132	6	28C.51.050	AMD	266	65
28A.34	ADD	150	1-4	29.01	ADD	167	1
28A.41.130	AMD	144	1	29.04.040	AMD	167	2
	(Effective 9/1/87)			29.04.055	AMD	167	3
28A.57.322	AMD	167	16	29.07	ADD	167	5
28A.58.090	AMD	137	1	29.07.065	AMD	167	4
28A.58.107	AMD	77	1	29.07.150	REP	167	25
28A.58.190	AMD	166	1	29.13	ADD	167	7
28A.61.070	AMD	158	3	29.13.020	AMD	167	6
28A.67.225	AMD	73	1	29.18	ADD	120	1,2
28A.87.140	REP	257	9	29.18.025	AMD	167	8
	(Effective 7/1/87)			29.21.060	AMD	167	9
28A.97.100	REP	158	25	29.30.010	AMD	167	10
28B	ADD	136	1-19	29.30.060	AMD	120	3
28B.05.010	REP	299	26	29.30.081	AMD	167	11
28B.05.020	REP	299	26	29.30.310	AMD	167	12
28B.05.030	REP	299	26	29.30.350	AMD	120	4
28B.05.040	REP	299	26	29.30.450	AMD	120	5
28B.05.050	REP	299	26	29.34.125	AMD	167	13
28B.05.060	REP	299	26	29.36.010	AMD	167	14
28B.05.070	REP	299	26	29.36.013	AMD	22	1
28B.05.080	REP	299	26	29.51.090	REP	167	25
28B.05.090	REP	299	26	29.51.110	AMD	167	15
28B.05.100	REP	299	26	29.54.180	REP	167	25
28B.05.110	REP	299	26	30.04	ADD	279	3,5, 16,44, 46-48,54
28B.05.120	REP	299	26				
28B.05.130	REP	299	26	30.04.020	AMD	284	15
28B.05.140	REP	299	26	30.04.030	AMD	279	1
28B.05.150	REP	299	26	30.04.040	REP	279	51
28B.05.160	REP	299	26	30.04.075	AMD	279	2
28B.05.170	REP	299	26	30.04.100	REP	279	51
28B.05.180	REP	299	26	30.04.110	REP	279	51
28B.05.190	REP	299	26	30.04.120	AMD	279	4
28B.05.200	REP	299	26	30.04.122	REP	279	51
28B.05.210	REP	299	26	30.04.124	REP	279	51
28B.05.220	REP	299	26	30.04.126	REP	279	51
28B.05.230	REP	299	26	30.04.128	REP	279	51
28B.05.240	REP	299	26	30.04.130	AMD	279	6
28B.05.900	REP	299	26	30.04.140	AMD	279	7
28B.05.950	REP	299	26	30.04.160	REP	279	51
28B.15	ADD	147	6	30.04.170	REP	279	51

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RCW	CH.	SEC.	RCW	CH.	SEC.
30.04.180	AMD	279	8	35.02.030	AMD 234 4
30.04.190	REP	279	51	35.02.035	AMD 234 5
30.04.210	AMD	279	9	35.02.040	AMD 234 8
30.04.215	AMD	279	10	35.02.050	REP 234 39
30.04.238	AMD	279	12	35.02.060	REP 234 39
30.04.340	RFP	279	51	35.02.070	AMD 234 9
30.04.350	REP	279	51	35.02.080	REP 234 39
30.04.360	REP	279	51	35.02.086	AMD 234 11
30.04.380	AMD	279	13	35.02.090	AMD 234 12
30.04.390	AMD	279	14	35.02.100	AMD 234 13
30.04.405	AMD	279	15	35.02.110	AMD 234 14
30.04.550	AMD	279	40	35.02.120	AMD 234 15
30.04.555	AMD	279	41	35.02.130	AMD 234 16
30.04.560	AMD	279	42	35.02.140	AMD 234 20
30.08	ADD	279	23	35.02.150	AMD 234 23
30.08.010	AMD	279	17	35.02.160	AMD 234 24
30.08.020	AMD	279	18	35.02.170	AMD 234 25
30.08.050	AMD	279	19	35.03.005	REP 234 39
30.08.060	AMD	279	20	35.03.010	REP 234 39
30.08.070	AMD	279	21	35.03.020	REP 234 39
30.08.082	AMD	279	22	35.03.030	REP 234 39
30.08.084	AMD	279	24	35.03.035	REP 234 39
30.08.086	AMD	279	25	35.03.040	REP 234 39
30.08.087	AMD	279	26	35.03.050	REP 234 39
30.08.088	AMD	279	27	35.04.010	REP 234 40
30.08.090	AMD	279	28	35.04.020	REP 234 40
30.08.140	AMD	279	29	35.04.030	REP 234 40
30.12	ADD	279	32,36, 37,50	35.04.040	REP 234 40
30.12.010	AMD	279	30	35.04.050	REP 234 40
30.12.020	AMD	279	31	35.04.060	REP 234 40
30.12.030	AMD	279	33	35.04.070	REP 234 40
30.12.050	AMD	279	34	35.04.080	REP 234 40
30.12.080	REP	279	51	35.04.090	REP 234 40
30.12.110	AMD	279	35	35.04.100	REP 234 40
30.12.140	REP	279	51	35.04.110	REP 234 40
30.12.150	REP	279	51	35.04.120	REP 234 40
30.12.160	REP	279	51	35.04.130	REP 234 40
30.12.170	REP	279	51	35.04.140	REP 234 40
30.12.200	REP	279	51	35.04.150	AMD 234 26
30.12.210	REP	279	51	35.04.150	RECOD 234 37
30.20.060	AMD	279	38	35.04.160	AMD 234 27
30.20.070	REP	279	51	35.04.160	RECOD 234 37
30.20.080	REP	279	51	35.04.170	AMD 234 28
30.40.020	AMD	279	39	35.04.170	RECOD 234 37
30.40.060	REP	279	51	35.04.180	REP 234 40
30.43.010	AMD	279	45	35.10	ADD 254 1-6
30.49.010	AMD	279	43	(Effective 7/1/87)	
30.49.040	AMD	279	49	35.10.217	AMD 253 1
31	ADD	284	1-13	35.13	ADD 254 7-9
34.08.020	AMD	60	3	35.13.247	AMD 234 18
34.12.100	AMD	155	10	35.13.247	RECOD 234 37
	(Effective 1/1/87)			35.13.248	AMD 234 19
35.02	ADD	234	1	35.13.248	RECOD 234 37
35.02	ADD	234	6,7, 10,17	35.21	ADD 70 2
				(Effective 1/1/87)	
35.02.010	AMD	234	2	35.21	ADD 70 3
35.02.020	AMD	234	3	35.21	ADD 248 1
				35.21.120	AMD 282 18

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RCW	CH.	SEC.	RCW	CH.	SEC.
35.21.300	AMD	245	1	35A.04.140	REP 234 42
35.21.301	AMD	245	2	35A.04.150	REP 234 42
35.21.714	AMD	70	1	35A.04.160	REP 234 42
	(Effective 1/1/87)			35A.04.170	REP 234 42
35.21.763	AMD	234	22	35A.04.180	REP 234 42
35.21.763	RECOD	234	37	35A.04.190	REP 234 42
35.21.764	RECOD	234	38	35A.11.020	AMD 278 7
35.22.280	AMD	278	3	35A.12.080	AMD 167 20
35.23	ADD	244	10	35A.14.015	AMD 234 29
35.23.190	AMD	167	17	35A.14.050	AMD 234 30
35.23.440	REMD	278	4	35A.14.140	AMD 234 31
35.24.080	AMD	167	18	35A.29.090	AMD 234 32
35.24.290	AMD	278	5	35A.29.110	AMD 167 21
35.27.120	AMD	167	19	35A.82	ADD 70 5
35.27.370	AMD	278	6		(Effective 1/1/87)
35.44.090	AMD	278	48	35A.82	ADD 70 6
35.67.025	AMD	278	55	35A.82.060	AMD 70 4
35.72	ADD	252	1		(Effective 1/1/87)
35.92	ADD	282	17	36.01.010	AMD 278 1
35.92.021	AMD	278	56	36.29	ADD 294 11
35.94	ADD	244	11	36.32	ADD 248 2
35A.03	ADD	234	36	36.32.070	AMD 159 1
35A.03.010	REP	234	41		(Effective 12/15/86)
35A.03.020	REP	234	41	36.32.120	AMD 278 2
35A.03.030	REP	234	41	36.34	ADD 244 12
35A.03.035	REP	234	41	36.34.145	AMD 171 2
35A.03.040	REP	234	41	36.37	ADD 307 2,3
35A.03.050	REP	234	41	36.58	ADD 282 19
35A.03.060	REP	234	41	36.58.040	AMD 282 20
35A.03.070	REP	234	41	36.60	ADD 26 1-5
35A.03.075	REP	234	41	36.89.085	AMD 278 57
35A.03.080	REP	234	41	36.93.170	AMD 234 33
35A.03.085	REP	234	41	36.94.145	AMD 278 58
35A.03.090	REP	234	41	36.94.180	AMD 234 34
35A.03.100	REP	234	41	37.12	ADD 267 1-4,6
35A.03.110	PEP	234	41	38.52.005	AMD 266 22
35A.03.120	REP	234	41	38.52.010	AMD 266 23
35A.03.130	REP	234	41	38.52.020	AMD 266 24
35A.03.140	REP	234	41	38.52.030	AMD 266 25
35A.03.151	REP	234	41	38.52.037	AMD 266 26
35A.03.152	REP	234	41	38.52.050	AMD 266 27
35A.03.160	AMD	234	21	38.52.070	AMD 266 28
35A.03.160	RECOD	234	37	38.52.090	AMD 266 29
35A.03.170	REP	234	41	38.52.170	AMD 266 30
35A.03.180	REP	234	41	38.52.207	AMD 266 31
35A.04.010	REP	234	42	38.52.210	AMD 266 32
35A.04.020	REP	234	42	38.52.240	AMD 266 33
35A.04.030	REP	234	42	38.52.250	AMD 266 34
35A.04.040	REP	234	42	38.52.300	AMD 266 35
35A.04.050	REP	234	42	38.52.310	AMD 266 36
35A.04.060	REP	234	42	38.52.320	AMD 266 37
35A.04.070	REP	234	42	38.52.330	AMD 266 38
35A.04.080	REP	234	42	38.52.340	AMD 266 39
35A.04.090	REP	234	42	38.52.360	AMD 266 40
35A.04.100	REP	234	42	38.52.370	AMD 266 41
35A.04.110	REP	234	42	38.52.390	AMD 266 42
35A.04.120	REP	234	42	38.52.400	AMD 266 43
35A.04.130	REP	234	42	38.52.410	AMD 266 44

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RCW	CH.	SEC.	RCW	CH.	SEC.	
39	ADD	107	42.12	ADD	159	2,3
39	ADD	127		(Effective 12/15/86)		
39.04	ADD	244	42.17	ADD	228	3
39.04.010	AMD	282	42.17.030	AMD	12	1
39.04.020	AMD	282	42.17.080	AMD	28	1
39.04.050	AMD	282	42.17.090	AMD	12	2
39.04.070	AMD	282	42.17.090	AMD	228	1
39.04.090	REP	282	42.17.105	AMD	228	2
39.29	ADD	33	42.17.190	AMD	239	1
39.29.040	AMD	33	42.17.310	AMD	276	7
39.36	ADD	50	42.17.310	AMD	299	25
39.36.030	AMD	50	42.17.370	AMD	155	11
39.46	ADD	168		(Effective 1/1/87)		
39.58	ADD	160	42.17.405	AMD	12	3
39.58.040	AMD	25	42.18.350	REP	204	3
39.58.080	AMD	160	42.30.110	AMD	276	8
39.58.135	AMD	25	43	ADD	294	1-9
39.84.020	AMD	308	43	ADD	298	1-3,
39.84.020	AMD	309				5-11
39.86	ADD	247	43.03	ADD	155	1-3
40.07.050	AMD	158		(Effective 1/1/87)		
40.10.020	AMD	266	43.03.010	AMD	155	8
40.14.020	AMD	275		(Effective 1/1/87)		
41.04	ADD	135	43.03.010	AMD	161	1
41.04	ADD	225		(Effective 1/1/87)		
41.04.330	AMD	317	43.03.028	AMD	155	9
41.05.040	AMD	312		(Effective 1/1/87)		
41.06	ADD	266	43.03.040	AMD	155	12
41.06	ADD	269		(Effective 1/1/87)		
41.06.091	REP	266	43.03.045	REP	155	14
41.06.163	AMD	158		(Effective 1/1/87)		
41.06.167	AMD	158	43.03.047	REP	155	14
41.16.050	AMD	296		(Effective 1/1/87)		
41.24.030	AMD	296	43.03.260	AMD	158	8
41.24.150	AMD	163	43.08.062	AMD	99	1
41.24.160	AMD	163	43.10	ADD	323	1
41.24.230	AMD	163	43.10.100	AMD	313	16
41.26.120	AMD	176	43.10.232	AMD	257	16
41.26.125	AMD	176	43.17	ADD	45	1
41.26.160	AMD	176	43.17	ADD	246	1
41.26.450	AMD	268	43.19	ADD	94	2
41.32.485	AMD	306	43.19.19052	AMD	158	9
41.32.500	AMD	317	43.19.200	AMD	158	10
41.32.570	AMD	237	43.19.610	REMD	312	902
41.32.775	AMD	268	43.19.650	AMD	158	11
41.40	ADD	154	43.19.660	AMD	158	12
41.40	ADD	176	43.19.680	AMD	325	2
41.40	ADD	317	43.20A	ADD	269	1
41.40.120	AMD	317	43.20A.700	REP	269	5
41.40.150	AMD	317	43.21B.005	AMD	173	3
41.40.198	AMD	306	43.21F.900	REP	270	10
41.40.200	AMD	207	43.23.035	AMD	202	1
41.40.235	AMD	176	43.24.110	REMD	259	149
41.40.330	AMD	268	43.30	ADD	100	50
41.40.361	AMD	268	43.30	ADD	100	46,47
41.40.370	AMD	268	43.30	ADD	206	12
41.40.650	AMD	268	43.30.040	AMD	227	1
41.60.130	REP	158	43.30.150	AMD	227	2

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RCW	CH.	SEC.	RCW	CH.	SEC.
43.30.300	AMD	100	51	43.131.303	AMD 270 5
43.31	ADD	183	4	43.131.304	AMD 270 6
43.41	ADD	303	11		(Effective 6/30/90)
43.41	ADD	325	3,4	43.131.305	REP 270 10
43.43	ADD	154	2	43.131.306	REP 270 10
43.43	ADD	196	1,2	43.131.307	REP 270 10
43.43.130	AMD	154	1	43.131.311	REP 295 21
43.43.710	AMD	266	87	43.131.312	REP 295 21
43.51.055	AMD	6	1	43.131.313	REP 270 10
43.51.300	AMD	47	1	43.131.314	REP 270 10
43.51.340	AMD	47	2	43.131.319	AMD 270 7
43.52.378	AMD	158	13	43.131.320	AMD 270 8
43.52.510	AMD	158	14		(Effective 6/30/90)
43.52.618	AMD	158	15	43.131.323	AMD 27 11
43.63A	ADD	266	54-61	43.132.040	AMD 158 18
43.63A.020	AMD	266	136	43.132.050	AMD 158 19
43.63A.065	AMD	266	137	43.168.050	AMD 204 2
43.79.445	AMD	31	2	43.168.100	AMD 204 1
43.88	ADD	306	1	43.180.050	AMD 264 1
43.88.010	AMD	215	1	43.180.160	AMD 264 2
43.88.020	AMD	215	2	43.180.200	AMD 264 3
43.88.030	AMD	112	1	43.180.210	REP 264 4
43.88.030	AMD	215	3	43.200	ADD 2 3,4,7
43.88.110	AMD	215	4	43.200	ADD 191 4
43.88.111	REP	215	7	43.200	ADD 191 1,2
43.88.112	REP	215	7	43.200.070	AMD 2 5
43.88.160	AMD	215	5	43.200.080	AMD 2 1
43.88.210	AMD	215	6	43.220.070	REMD 266 48
43.88A.030	AMD	158	16	44	ADD 61 1-9
43.99G.020	AMD	103	1	44.44.040	AMD 317 6
43.101.850	REP	270	10	46.04	ADD 18 2,3
43.105	ADD	61	10		(Effective 1/1/87)
43.105.016	AMD	158	17	46.04.650	AMD 18 1
43.105.045	AMD	155	13		(Effective 1/1/87)
				46.08.066	AMD 158 20
43.131.189	REP	270	10	46.09	ADD 206 13,14
43.131.190	REP	270	10	46.09.020	AMD 206 1
43.131.21	REP	270	10	46.09.030	AMD 206 2
43.131.212	REP	270	10	46.09.050	AMD 206 3
43.131.213	REP	273	2	46.09.060	REP 206 15
43.131.214	REP	273	2	46.09.070	AMD 206 4
43.131.215	AMD	270	1	46.09.080	AMD 206 5
43.131.216	AMD	270	2	46.09.090	REP 206 15
				46.09.110	AMD 206 6
				46.09.130	AMD 206 7
43.131.221	REP	270	10	46.09.170	AMD 206 8
43.131.222	REP	270	10	46.09.200	AMD 100 52
43.131.269	AMD	272	1	46.09.240	AMD 206 9
43.131.270	AMD	272	2	46.09.250	AMD 206 11
				46.09.260	REP 206 15
				46.09.270	REP 206 15
43.131.273	REP	171	1	46.10.030	AMD 16 1
43.131.274	REP	171	1	46.10.040	AMD 16 2
43.131.275	REP	123	7	46.10.220	AMD 16 3
43.131.276	REP	123	7	46.10.220	AMD 270 9
43.131.291	REP	299	26	46.12	ADD 186 4
43.131.292	REP	299	26	46.16	ADD 30 2,4
43.131.301	AMD	270	3	46.16	ADD 186 5
43.131.302	AMD	270	4		(Effective 6/30/90)

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RCW	CH.	SEC.	RCW	CH.	SEC.	
46.16	ADD	280	1	46.37.320	REMD 113	2
46.16.010	AMD	186	1	46.37.380	AMD 113	3
46.16.020	AMD	30	1	46.37.420	AMD 113	4
46.16.028	AMD	186	2	46.37.430	AMD 113	5
46.16.070	AMD	18	4	46.37.440	AMD 113	6
	(Effective 1/1/87)			46.37.467	AMD 266	88
46.16.079	AMD	18	5	46.37.510	AMD 113	7
	(Effective 1/1/87)			46.37.530	AMD 113	8
46.16.080	AMD	18	6	46.37.535	AMD 113	9
	(Effective 1/1/87)			46.44.170	REMD 211	4
46.16.083	AMD	18	7	46.52.130	AMD 74	1
	(Effective 1/1/87)			46.61	ADD 152	1
46.16.085	AMD	18	8	46.61.100	AMD 93	2
	(Effective 1/1/87)			46.61.502	AMD 153	2
46.16.088	AMD	18	9	46.61.504	AMD 153	3
	(Effective 1/1/87)			46.61.506	AMD 153	4
46.16.090	REMD	18	10	46.61.517	AMD 64	2
	(Effective 1/1/87)			46.61.655	AMD 89	1
46.16.111	AMD	18	11	46.63.020	REMD 186	3
	(Effective 1/1/87)			46.63.110	AMD 213	2
46.16.130	REP	18	26	46.64.020	AMD 213	1
	(Effective 1/1/87)			46.68.100	AMD 66	1
46.16.135	AMD	18	12		(Effective 7/1/87)	
	(Effective 1/1/87)			46.70	ADD 165	1
46.16.140	AMD	18	13	46.70	ADD 199	1
	(Effective 1/1/87)			46.70	ADD 241	4-6,
46.16.170	AMD	18	14			15,23
	(Effective 1/1/87)			46.70.005	AMD 241	1
46.16.225	AMD	18	15	46.70.011	AMD 241	2
	(Effective 1/1/87)			46.70.021	AMD 241	3
46.16.260	AMD	18	16	46.70.031	AMD 241	7
	(Effective 1/1/87)			46.70.041	AMD 241	8
46.16.270	AMD	30	3	46.70.061	AMD 241	9
46.16.270	AMD	280	4	46.70.061	AMD 241	10
46.16.275	REP	280	5		(Effective 7/1/87)	
46.16.280	AMD	18	17	46.70.070	AMD 241	11
	(Effective 1/1/87)			46.70.081	REP 241	24
46.16.290	AMD	18	18	46.70.082	REP 241	24
	(Effective 1/1/87)			46.70.083	AMD 241	12
46.16.340	AMD	266	49	46.70.101	AMD 241	13
46.16.370	REP	108	2	46.70.102	AMD 241	14
46.16.381	AMD	96	1	46.70.120	AMD 241	16
46.16.570	AMD	108	1	46.70.170	AMD 241	17
46.20	ADD	93	3	46.70.180	AMD 241	18
46.20.041	AMD	176	1	46.70.190	AMD 241	19
46.20.055	AMD	17	1	46.70.200	AMD 241	20
46.20.092	REP	101	1	46.70.210	AMD 241	21
46.20.117	AMD	15	1	46.70.260	AMD 241	22
46.20.308	AMD	64	1	46.81	ADD 93	4
46.20.308	AMD	153	5	46.82	ADD 93	5
46.32.010	AMD	123	1	46.82.280	AMD 80	1
46.32.020	AMD	123	2	46.82.320	AMD 80	2
46.32.030	REP	123	7	46.85.120	AMD 18	19
46.32.040	AMD	123	3		(Effective 1/1/87)	
46.32.050	AMD	123	4	46.85.130	AMD 18	20
46.32.060	AMD	123	5		(Effective 1/1/87)	
46.32.070	AMD	123	6	46.85.135	REP 18	26
46.37.310	AMD	113	1		(Effective 1/1/87)	

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RCW	CH.	SEC.	RCW	CH.	SEC.
46.85.147	REP 18	26	47.60.505	AMD 66	9
	(Effective 1/1/87)			(Effective 7/1/87)	
46.85.160	AMD 18	21	47.60.550	AMD 66	10
	(Effective 1/1/87)			(Effective 7/1/87)	
46.87.010	AMD 18	22	47.60.560	AMD 290	8
	(Effective 1/1/87)		47.60.570	AMD 290	9
46.87.030	AMD 18	23	47.60.620	AMD 66	11
	(Effective 1/1/87)			(Effective 7/1/87)	
46.87.090	AMD 18	24	48	ADD 141	1-7
	(Effective 1/1/87)		48	ADD 142	1-17
46.87.100	REP 18	26	48	ADD 170	6
	(Effective 1/1/87)			(Effective 11/1/86)	
46.87.110	REP 18	26	48	ADD 170	1-5, 7-10
	(Effective 1/1/87)			(Effective 7/1/87)	
46.88.010	AMD 18	25		ADD 243	1-7
	(Effective 1/1/87)		48	ADD 140	1
46.90.300	AMD 24	1	48.01	(Effective 1/1/87)	
46.90.406	AMD 24	2		ADD 296	7
47.10.791	AMD 290	6	48.02	AMD 266	66
47.10.792	AMD 290	7	48.05.320	AMD 148	1
47.10.802	AMD 290	1	48.05.380	AMD 148	2
47.10.803	AMD 290	2	48.05.390	REP 296	10
47.26.421	AMD 290	3	48.14.015	AMD 296	1
47.26.422	AMD 290	4	48.14.020	AMD 296	2
47.26.423	AMD 290	5	48.14.025	ADD 69	1
47.36	ADD 93	6	48.17	(Effective 1/1/87)	
47.42	ADD 114	3		ADD 286	1
47.42.046	AMD 114	1	48.17	AMD 287	1
47.42.047	AMD 114	2	48.18.290	AMD 287	2
47.60.150	AMD 23	1	48.18.2901	AMD 287	3
47.60.150	AMD 66	2	48.18.296	ADD 235	1-4
	(Effective 7/1/87)		48.19	ADD 305	907
47.60.350	REP 66	12	48.19	ADD 140	2
	(Effective 7/1/87)		48.20	(Effective 1/1/87)	
47.60.360	REP 66	12		ADD 140	3
	(Effective 7/1/87)		48.21	(Effective 1/1/87)	
47.60.370	REP 66	12		AMD 184	2
	(Effective 7/1/87)		48.21.240	(Effective 3/1/87)	
47.60.380	REP 66	12		ADD 305	906
	(Effective 7/1/87)		48.22	ADD 140	4
47.60.390	REP 66	12	48.44	(Effective 1/1/87)	
	(Effective 7/1/87)			ADD 223	10-12
47.60.400	AMD 66	3	48.44	REMD 223	1
	(Effective 7/1/87)		48.44.010	AMD 223	2
47.60.410	REP 66	12	48.44.020	AMD 223	3
	(Effective 7/1/87)		48.44.030	AMD 223	4
47.60.420	AMD 66	4	48.44.080	AMD 296	8
	(Effective 7/1/87)		48.44.145	AMD 223	6
47.60.430	AMD 66	5	48.44.290	AMD 223	7
	(Effective 7/1/87)		48.44.300	AMD 223	8
47.60.440	AMD 66	6	48.44.310	AMD 184	3
	(Effective 7/1/87)		48.44.340	(Effective 3/1/87)	
47.60.450	AMD 66	7		AMD 223	9
	(Effective 7/1/87)		48.44.350	ADD 140	5
47.60.500	AMD 66	8	48.46	(Effective 1/1/87)	
	(Effective 7/1/87)			AMD 296	9
47.60.504	REP 66	12	48.46.120		
	(Effective 7/1/87)				

RCW SECTIONS AFFECTED BY 1986 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
48.46.290	AMD 184	4	51.32	ADD 59	5
	(Effective 3/1/87)		51.32.050	AMD 58	3
48.48.001	REP 266	135	51.32.055	AMD 55	1
48.48.005	REP 266	135	51.32.060	AMD 58	5
48.48.011	REP 266	135	51.32.060	AMD 59	1
48.48.015	REP 266	135	51.32.080	AMD 58	2
48.48.021	REP 266	135	51.32.090	REMD 59	2
48.48.025	REP 266	135	51.32.090	AMD 59	3
48.48.028	REP 266	135		(Effective 6/30/89)	
48.48.030	AMD 266	67	51.32.160	AMD 59	4
48.48.040	AMD 266	68	51.32.240	AMD 54	1
48.48.045	AMD 266	69	51.36	ADD 200	1,2
48.48.050	AMD 266	70	51.36.010	AMD 58	6
48.48.060	AMD 266	71	51.48	ADD 9	12-18,
48.48.065	AMD 266	72			21-23
48.48.070	AMD 266	73	51.48	ADD 200	3-7
48.48.080	AMD 266	74	51.48.030	AMD 9	8
48.48.090	AMD 266	75	51.48.040	AMD 9	9
48.48.110	AMD 266	76	51.48.110	AMD 56	1
48.48.140	AMD 266	89	51.48.120	AMD 9	10
48.48.150	AMD 266	90	51.48.150	AMD 9	11
48.50.020	AMD 266	77	51.52	ADD 9	19,20
48.50.040	AMD 266	91	51.52.050	AMD 200	10
48.53.020	AMD 266	92	51.52.060	AMD 200	11
48.53.060	AMD 266	93	51.52.095	AMD 10	1
48.62.040	AMD 302	1	52.04	ADD 254	10-12
49.17.100	AMD 192	1	52.06	ADD 254	13-15
49.17.140	AMD 20	1	52.08.025	AMD 234	35
49.17.180	AMD 20	2	52.12	ADD 278	49
49.17.190	AMD 20	3	52.12	ADD 311	2
49.70	ADD 310	2	52.12.031	AMD 311	1
49.70.170	AMD 310	1	52.14.070	AMD 167	22
50	ADD 116	1-6	52.18.030	AMD 100	53
50.04.165	AMD 110	1	52.20.027	AMD 100	54
50.04.320	AMD 21	1	53	ADD 276	1-6
50.20	ADD 75	1	53.04.020	AMD 262	1
50.20.015	AMD 106	1	53.08.310	AMD 260	1
50.20.016	REP 106	6	53.08.320	AMD 260	2
50.20.017	REP 106	6	53.12.020	AMD 262	2
50.29.010	AMD 111	1	53.48.010	AMD 278	17
50.29.022	AMD 111	3	54.04	ADD 244	14
51.04	ADD 9	1-3	54.12.100	AMD 167	23
51.04.030	AMD 200	8	54.16.285	AMD 245	3
51.04.040	AMD 200	9	54.16.286	AMD 245	4
51.08	ADD 200	12	54.16.290	REP 245	7
51.08.030	AMD 293	1	54.28.055	AMD 189	1
51.12.045	AMD 193	1	56.08	ADD 244	15
51.14	ADD 57	4,6	56.08.012	AMD 278	59
51.14.020	AMD 57	1	56.12.030	AMD 41	1
51.14.060	AMD 57	2	56.16.160	AMD 294	12
51.14.070	AMD 57	3	56.20.020	AMD 256	1
51.14.080	AMD 57	7	56.20.030	AMD 256	2
51.16	ADD 9	6,7	56.24	ADD 258	1
51.16.150	AMD 9	4	57.08	ADD 244	16
51.16.170	AMD 9	5	57.12	ADD 41	2
51.24.030	AMD 58	1	57.16.060	AMD 256	3
51.24.060	AMD 305	403	57.20.160	AMD 294	13
51.32	ADD 58	4	57.24	ADD 258	2

RCW SECTIONS AFFECTED BY 1986 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
57.28.050	AMD	109	1	60.22.020	REP 242 17
58.17	ADD	233	1		(Effective 1/1/87)
58.17.140	AMD	233	2	60.22.030	REP 242 17
58.17.310	AMD	39	1		(Effective 1/1/87)
60	ADD	181	1-5	60.24.075	AMD 179 2
60	ADD	242	1-14	60.28	ADD 314 5
				60.28.010	AMD 181 6
				62A.1-201	AMD 35 53
60.04	ADD	179	1	62A.3-515	AMD 128 1
60.04	ADD	314	4	62A.3-520	AMD 128 2
60.12.010	REP	242	17	62A.5-114	AMD 35 54
				62A.8	ADD 35 7,36,43,44
60.12.020	REP	242	17		
				62A.8-102	AMD 35 1
60.12.030	REP	242	17	62A.8-103	AMD 35 2
				62A.8-104	AMD 35 3
60.12.040	REP	242	17	62A.8-105	AMD 35 4
				62A.8-106	AMD 35 5
60.12.060	REP	242	17	62A.8-107	AMD 35 6
				62A.8-201	AMD 35 8
60.12.070	REP	242	17	62A.8-202	AMD 35 9
				62A.8-203	AMD 35 10
60.12.080	REP	242	17	62A.8-204	AMD 35 11
				62A.8-205	AMD 35 12
60.12.090	REP	242	17	62A.8-206	AMD 35 13
				62A.8-207	AMD 35 14
60.12.100	REP	242	17	62A.8-208	AMD 35 15
				62A.8-301	AMD 35 16
60.12.110	REP	242	17	62A.8-302	AMD 35 17
				62A.8-303	AMD 35 18
60.12.120	REP	242	17	62A.8-304	AMD 35 19
				62A.8-305	AMD 35 20
60.12.130	REP	242	17	62A.8-306	AMD 35 21
				62A.8-307	AMD 35 22
60.12.140	REP	242	17	62A.8-308	AMD 35 23
				62A.8-309	AMD 35 24
60.12.150	REP	242	17	62A.8-310	AMD 35 25
				62A.8-311	AMD 35 26
60.12.160	REP	242	17	62A.8-312	AMD 35 27
				62A.8-313	AMD 35 28
60.12.170	REP	242	17	62A.8-314	AMD 35 29
				62A.8-315	AMD 35 30
60.12.180	REP	242	17	62A.8-316	AMD 35 31
				62A.8-317	AMD 35 32
60.12.190	REP	242	17	62A.8-318	AMD 35 33
				62A.8-319	AMD 35 34
60.12.200	REP	242	17	62A.8-320	AMD 35 35
				62A.8-401	AMD 35 37
60.12.210	REP	242	17	62A.8-402	AMD 35 38
				62A.8-403	AMD 35 39
60.13	ADD	178	15	62A.8-404	AMD 35 40
60.14.010	REP	242	17	62A.8-405	AMD 35 41
				62A.8-406	AMD 35 42
60.14.020	REP	242	17	62A.9-103	AMD 35 45
				62A.9-105	AMD 35 46
60.14.030	REP	242	17	62A.9-203	AMD 35 47
				62A.9-204	AMD 178 16
60.22.010	REP	242	17	62A.9-302	AMD 35 48

RCW SECTIONS AFFECTED BY 1986 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
62A.9-304	AMD	35	49	70.48.070	AMD 118 4
62A.9-305	AMD	35	50	70.48.080	AMD 118 5
62A.9-309	AMD	35	51	70.48.090	AMD 118 6
62A.9-310	AMD	242	16	70.48.110	AMD 118 7
		(Effective 1/1/87)		70.48.120	AMD 118 8
62A.9-312	AMD	35	52	70.48.130	AMD 118 9
63.14	ADD	60	2	70.48.150	REP 118 18
63.29.180	AMD	84	1	70.48.160	AMD 118 10
66.08.014	AMD	105	1	70.48.200	AMD 118 11
66.08.050	AMD	214	2	70.48.260	AMD 118 12
66.08.180	AMD	87	1	70.48.280	AMD 118 13
		(Effective 7/1/87)		70.48.330	AMD 118 14
66.24	ADD	214	1	70.48A.020	AMD 118 16
66.24.400	AMD	208	1	70.48A.040	AMD 118 17
66.24.550	AMD	40	1	70.54.150	AMD 259 150
66.44.340	AMD	5	1	70.54.190	AMD 259 151
67.08.910	REP	270	10	70.62.290	AMD 266 95
67.16.175	AMD	43	1	70.75.020	AMD 266 96
67.28.180	AMD	104	1	70.75.030	AMD 266 97
67.28.210	AMD	308	1	70.75.040	AMD 266 98
67.42	ADD	86	2	70.77.170	AMD 266 99
67.42.020	AMD	86	1	70.77.250	AMD 266 100
67.70	ADD	4	2	70.77.305	AMD 266 101
67.70	ADD	83	2	70.77.315	AMD 266 102
		(Effective 9/1/86)		70.77.325	AMD 266 103
67.70.050	AMD	158	21	70.77.330	AMD 266 104
68.08	ADD	129	1	70.77.355	AMD 266 105
68.08.107	AMD	87	2	70.77.360	AMD 266 106
		(Effective 7/1/87)		70.77.365	AMD 266 107
68.16.180	AMD	167	24	70.77.375	AMD 266 108
69.04	ADD	203	17	70.77.415	AMD 266 109
69.04.398	AMD	203	18	70.77.430	AMD 266 110
69.41.100	AMD	52	1	70.77.435	AMD 266 111
69.41.130	AMD	52	2	70.77.440	AMD 266 112
69.50.101	AMD	124	1	70.77.450	AMD 266 113
69.50.201	AMD	124	2	70.77.455	AMD 266 114
69.50.204	AMD	124	3	70.77.460	AMD 266 115
69.50.206	AMD	124	4	70.77.465	AMD 266 116
69.50.208	AMD	124	5	70.77.575	AMD 266 117
69.50.210	AMD	124	6	70.77.580	AMD 266 118
69.50.212	AMD	124	7	70.79.080	AMD 97 1
69.50.304	AMD	124	8	70.79.320	AMD 97 2
69.50.505	AMD	124	9	70.90	ADD 236 1-15
69.54	ADD	53	1	70.94.760	AMD 100 55
69.54.030	AMD	53	2	70.95	ADD 81 1
70	ADD	3	1-11	70.95	ADD 297 1
70	ADD	205	1-3	70.98	ADD 191 3
70	ADD	244	1-9	70.98.085	AMD 2 2
70	ADD	271	1-5	70.105	ADD 82 1
70	ADD	303	6-10	70.105	ADD 210 3
70.41	ADD	300	4,7,8,11	70.105.020	AMD 266 119
				70.105.220	AMD 210 1
70.41.080	AMD	266	94	70.105.235	AMD 210 2
70.48.020	AMD	118	1	70.108.040	AMD 266 120
70.48.030	REP	118	18	70.136.030	AMD 266 50
70.48.040	REP	118	18	70.160.060	AMD 266 121
70.48.050	AMD	118	2	71.05	ADD 67 2
70.48.060	AMD	118	3	71.05	ADD 67 7

RCW SECTIONS AFFECTED BY 1986 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
71.05.280	AMD	67	3	76.04.140	REP	100	59
71.05.290	AMD	67	4	76.04.150	REP	100	59
71.05.320	AMD	67	5	76.04.170	REP	100	59
71.05.330	AMD	67	1	76.04.180	REP	100	59
71.05.340	AMD	67	6	76.04.190	REP	100	59
71.05.390	AMD	67	8	76.04.200	REP	100	59
71.12.485	AMD	266	122	76.04.210	REP	100	59
71.24	ADD	274	4,6, 7,10	76.04.220	REP	100	59
71.24.015	AMD	274	1	76.04.222	REP	100	59
	(Effective 7/1/87)			76.04.240	REP	100	59
71.24.025	AMD	274	2	76.04.242	REP	100	59
	(Effective 7/1/87)			76.04.245	REP	100	59
71.24.035	AMD	274	3	76.04.251	REP	100	59
	(Effective 7/1/87)			76.04.252	REP	100	59
71.24.045	AMD	274	5	76.04.270	REP	100	59
	(Effective 7/1/87)			76.04.273	REP	100	59
71.24.155	AMD	274	9	76.04.275	REP	100	59
	(Effective 7/1/87)			76.04.277	REP	100	59
72.01	ADD	269	4	76.04.280	REP	100	59
72.09	ADD	94	1	76.04.290	REP	100	59
72.09.050	AMD	19	1	76.04.300	REP	100	59
72.09.100	AMD	193	2	76.04.310	REP	100	59
72.09.110	AMD	162	1	76.04.340	REP	100	59
72.33.125	AMD	146	1	76.04.350	REP	100	59
72.65.090	AMD	125	6	76.04.360	REP	100	59
72.65.100	AMD	125	7	76.04.370	REP	100	59
74.04.630	AMD	158	22	76.04.380	REP	100	59
74.08.541	AMD	222	1	76.04.385	REP	100	59
74.09	ADD	220	1	76.04.390	REP	100	59
74.09	ADD	303	2	76.04.395	REP	100	59
74.15.050	AMD	266	123	76.04.400	REP	100	59
74.15.080	AMD	266	124	76.04.410	REP	100	59
74.34	ADD	187	4-11	76.04.420	REP	100	59
74.34.030	AMD	187	1	76.04.430	REP	100	59
74.34.040	AMD	187	2	76.04.440	REP	100	59
74.34.050	AMD	187	3	76.04.490	REP	100	59
74.46.360	AMD	175	1	76.04.500	REP	100	59
74.46.410	AMD	175	3	76.04.510	REP	100	59
75.20	ADD	173	2,4-6	76.04.515	REP	100	59
75.20.050	AMD	173	7	76.04.520	REP	100	59
75.20.100	AMD	173	1	76.09	ADD	100	49
75.28.014	AMD	198	8	76.14.120	AMD	100	56
75.30	ADD	198	1-6	77.12.270	AMD	126	11
75.30.050	AMD	198	7	77.12.280	AMD	126	12
76.04	ADD	100	1-45	77.21.070	AMD	318	1
76.04.010	REP	100	59	79.01	ADD	100	48
76.04.020	REP	100	59	79.14.020	AMD	34	1
76.04.030	REP	100	59	80.04	ADD	11	1
76.04.050	REP	100	59	80.04.165	REP	49	1
76.04.060	REP	100	59	80.28	ADD	119	1
76.04.070	REP	100	59	80.28.010	AMD	245	5
76.04.080	REP	100	59	80.28.011	AMD	245	6
76.04.090	REP	100	59	80.36	ADD	277	2
76.04.100	REP	100	59	80.36	ADD	281	2
76.04.110	REP	100	59	80.50.030	REMD	266	51
76.04.120	REP	100	59	81.04.165	REP	49	1
76.04.130	REP	100	59	81.80.190	AMD	191	5
				82	ADD	116	15-20

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RCW		CH.	SEC.	RCW		CH.	SEC.
82	ADD	282	6-13	84.33.130	AMD	100	57
82.01.120	AMD	112	2	84.33.140	AMD	238	2
82.01.135	AMD	158	23	84.36.080	AMD	229	1
82.02.030	AMD	296	5	84.40	ADD	229	2
82.04.050	AMD	231	1	84.40.175	AMD	285	3
82.04.190	AMD	231	2	84.52.053	AMD	133	1
82.04.280	AMD	226	2		(Effective 12/15/86)		
82.04.431	AMD	261	6	84.52.054	AMD	133	2
82.08	ADD	231	3		(Effective 12/15/86)		
82.08	ADD	265	1	84.55	ADD	107	3
82.08.0283	AMD	255	1	84.55.050	AMD	169	1
82.08.0293	AMD	182	1	84.64.050	REMD	278	64
82.08.033	AMD	211	2	85.05	ADD	278	11,23
82.08.050	AMD	36	1	85.05.290	REP	278	46
82.08.080	AMD	36	2	85.05.300	REP	278	46
82.12	ADD	231	4	85.05.310	REP	278	46
82.12	ADD	265	2	85.05.320	REP	278	46
82.12.0277	AMD	255	2	85.05.330	REP	278	46
82.12.0293	AMD	182	2	85.05.340	REP	278	46
82.12.033	AMD	211	3	85.05.360	AMD	278	29
82.12.040	AMD	48	1	85.05.480	REP	278	46
82.16.010	AMD	226	1	85.05.510	REP	278	46
82.16.020	AMD	282	14	85.05.520	REP	278	46
82.24	ADD	3	12	85.05.530	REP	278	46
82.24	ADD	321	4-10	85.05.560	REP	278	47
	(Effective 7/1/91)			85.05.570	REP	278	47
82.24.260	REMD	3	13	85.05.580	REP	278	47
82.26	ADD	3	14	85.05.590	REP	278	47
82.29A.020	AMD	285	1	85.05.600	REP	278	47
82.29A.120	AMD	285	2	85.06	ADD	278	12,24
82.29A.160	AMD	251	1	85.06.170	REP	278	46
82.32	ADD	3	15	85.06.260	REP	278	46
82.38.090	AMD	29	2	85.06.270	REP	278	46
82.38.145	REP	29	1	85.06.280	REP	278	46
82.45.032	AMD	211	1	85.06.290	REP	278	46
82.60	ADD	116	14	85.06.300	REP	278	46
82.60.020	AMD	116	12	85.06.310	REP	278	46
82.60.040	AMD	116	13	85.06.321	REP	278	46
82.61.010	AMD	116	9	85.06.322	REP	278	46
82.61.040	AMD	116	10	85.06.323	REP	278	46
82.61.070	AMD	116	11	85.06.324	REP	278	46
83	ADD	63	1-14	85.06.325	REP	278	46
83.100.050	AMD	44	1	85.06.326	REP	278	46
83.100.080	AMD	44	2	85.06.327	REP	278	46
84.08.200	AMD	229	3	85.06.328	REP	278	46
84.08.200	RECOD	229	5	85.06.329	REP	278	46
84.26.020	AMD	221	1	85.06.330	AMD	278	30
84.26.030	AMD	221	2	85.06.510	REP	278	47
84.26.040	AMD	221	3	85.06.520	REP	278	47
84.26.050	AMD	221	4	85.06.530	REP	278	47
84.26.070	AMD	221	5	85.06.540	REP	278	47
84.26.080	AMD	221	6	85.07.020	REP	278	47
84.26.090	AMD	221	7	85.07.030	REP	278	47
84.33	ADD	315	3,8	85.08	ADD	278	13,25
84.33.035	AMD	315	1	85.08.210	AMD	278	31
84.33.073	AMD	315	2	85.08.240	REP	278	46
84.33.078	AMD	65	1	85.08.280	REP	278	46
84.33.120	AMD	238	1	85.08.320	AMD	278	32

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RCW	CH.	SEC.	RCW	CH.	SEC.
85.08.580	REP	278	47	86.09.586	REP 278 46
85.08.590	REP	278	47	86.09.589	REP 278 46
85.08.600	REP	278	47	86.09.604	REP 278 46
85.08.610	REP	278	47	86.09.607	REP 278 46
85.08.620	REP	278	47	86.09.610	REP 278 46
85.08.625	REP	278	47	86.09.613	REP 278 46
85.09.010	REP	278	46	86.15.160	AMD 278 60
85.09.020	REP	278	46	86.15.176	AMD 278 61
85.09.030	REP	278	46	86.26.007	AMD 46 1
85.09.040	REP	278	46	86.26.040	AMD 46 2
85.09.050	REP	278	46	86.26.050	AMD 46 3
85.09.060	REP	278	46	86.26.100	AMD 46 4
85.09.070	REP	278	46	86.26.105	AMD 46 5
85.09.080	REP	278	46	87.03	ADD 8 1
85.09.090	REP	278	46	88.02	ADD 71 1
85.09.900	REP	278	46	88.02.095	AMD 153 6
85.16.030	AMD	278	33	88.16.090	AMD 122 1
85.16.180	AMD	278	34	88.16.100	AMD 121 1
85.20.070	AMD	278	35	88.16.103	AMD 122 2
85.20.080	REP	278	46	90.03	ADD 278 53,54
85.20.090	REP	278	46	90.03.500	AMD 278 62
85.20.100	REP	278	46	90.03.510	AMD 278 63
85.20.110	REP	278	46	90.58.030	AMD 292 1
85.20.120	AMD	278	36	90.58.180	AMD 292 2
85.20.130	REP	278	46	90.58.190	AMD 292 3
85.22.060	AMD	278	37	90.58.210	AMD 292 4
85.22.070	REP	278	46	91	ADD 217 1-12
85.22.080	REP	278	46		
85.22.090	REP	278	46		
85.22.100	REP	278	46		
85.22.110	REP	278	46		
85.22.120	REP	278	46		
85.24	ADD	278	14,26		
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6	711	AMD	312	707
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(Effective 6/30/92)

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